

UNITED SUPERIOR COURT
SOUTHERN DISTRICT OF NEW YORK

Case No. 1:18-cv-04438-AT-BCM

- - - - -X
MORGAN ART FOUNDATION LIMITED, :
Plaintiff :
VS :
MICHAEL MCKENZIE D/B/A AMERICAN :
IMAGE ART, :
Defendant :
- - - - -X

Videotaped deposition of
ANNETTE VESSECCHIA
taken via videoconference before Clifford Edwards,
Certified Shorthand Reporter and Notary Public, on
November 3, 2021, at 10:18 a.m.

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1 A P P E A R A N C E S: (all via videoconference)

2
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21 JUSTINE BARBARY, VIDEOGRAPHER
22
23
24
25

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1 ANNETTE VESSECCHIA

2
3 THE VIDEOGRAPHER: We are now on
4 the record. This begins videotape
5 number one in the deposition of Annette
6 Vessecchia in the matter of Morgan Art
7 Foundation vs. McKenzie, et al. Today
8 is Wednesday, November 3rd, 2021. And
9 the time is 10:18 a.m.

10 This deposition is being taken
11 virtually at the request of Quinn
12 Emanuel Urquhart & Sullivan, LLP.

13 The videographer is Justine Barbary
14 of Magna Legal Services. And the court
15 reporter is Cliff Edwards of Magna Legal
16 Services.

17 Will counsel and all parties
18 present state their appearances and whom
19 they represent.

20 MR. RAKOWER: Ryan Rakower from
21 Quinn Emanuel on behalf of Morgan Art
22 Foundation.

23 MS. ZERNER: Bridget Zerner of
24 Markham Read Zerner on behalf of Michael
25 McKenzie, doing business as American

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ANNETTE VESSECCHIA
Image Art, and on behalf of the witness,
Annette Vessecchia.

THE VIDEOGRAPHER: Will the court
reporter please swear in the witness?

ANNETTE VESSECCHIA
having first been duly sworn, deposed and testified
as follows:

DIRECT EXAMINATION

BY MR. RAKOWER:

Q Good morning, Ms. Vessecchia. My name
is Ryan Rakower, and I'm an attorney with the law
firm of Quinn Emanuel. We represent Morgan Art
Foundation, and I'm going to be asking you some
questions today regarding your knowledge of facts
or events underlying the claims and assertions by
the parties to the lawsuit Morgan Art Foundation
Limited vs. Michael McKenzie.

Do you understand that?

A Yes.

Q Okay. If you don't understand any of my
questions, please just let me know, and I'll try

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ANNETTE VESSECCHIA
Is there any reason that would prevent
you from testifying truthfully or accurately
today?

A No.

Q Is there anybody in -- in the room with
you?

A No.

Q And from where are you taking this
deposition?

A My house -- my home.

Q Okay. And do you understand that you
swore an oath today to tell the truth?

A Yes.

Q And do you understand that's the same
oath that you would give to testify in court?

A Yes.

Q Okay. Are you -- are you currently
taking or under the influence of any medications,
alcohol, or any other substance that would prevent
you from answering my questions accurately and
completely?

A No.

Q Okay. Is there any other reason why
you -- you would not be able to answer my

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ANNETTE VESSECCHIA
to rephrase it. Otherwise, I'm going to assume
that you understood my question.

Does that work for you?

A Yes.

Q Okay. And if you need a break, just let
me know. My only request is that you answer any
question that's pending before we take the break.

A Okay.

Q Okay. At times your attorney,
Ms. Zerner, may lodge objections to my questions.
Unless otherwise directed by Ms. Zerner, I'm going
to ask that you nevertheless answer the question
that's pending; okay?

A Okay.

Q Okay. And for the sake of the court
reporter, please audibly answer my questions
rather than just nonverbal gestures, like a nod,
to make sure that the answer can be picked up by
the court reporter.

Does that work for you?

A Yes.

Q Okay. And this deposition, as you can
tell, is being conducted remotely by video
conference.

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ANNETTE VESSECCHIA
questions accurately and completely?

A No.

Q Great.

Are you familiar with Michael McKenzie?

A Yes.

Q Do you work with him?

A Yes.

Q Okay. Are you officially employed in
connection with that work?

A Yes.

Q Okay. Who is your employer?

A Michael McKenzie.

Q And what's your position working for
him?

A I'm a graphic designer.

Q Do you work for him in any other
capacity?

A I mean, unless he asks me for another
request, like something outside of the realm of
graphic design, like -- I mean, I don't know.

We wear a lot of hats there. So -- but
that's my main -- that's my main job.

Q Does -- so you mentioned that you wear a
lot of hats.

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ANNETTE VESSECCHIA

Does he ask you to do work other than graphic design work?

A Not very often, no.

Q But he does at some times?

A Sure. Remind me to clean or, you know, I might help with printing, you know. It just depends.

Q And what kind of cleaning would you help with?

A Just, you know, regular, like, cleaning up the dishes in the kitchen or -- just cleaning up anything that might need to be, you know, put away or -- I mean, I just kind of think of that as just part of the job.

Q And -- and that would be at -- at McKenzie's residence --

A Yeah.

Q -- or at the studio?

A At the studio.

Q At the studio, okay.

And do you ever help with -- with cleaning or assistance at his residence?

A No.

Q Okay. But his residence is located on

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ANNETTE VESSECCHIA

artworks attributed to Robert Indiana?

A It could or other artists as well.

Q Okay. Which other artists?

A There's so many that we've done collaborations with. Are you wanting me to list them or -- I mean --

Q You can give a few examples, if that would be helpful.

A Like, Robert, like, Cottingham, although I didn't really work with him, but there's some urban artists, Crash, Ron English, Iko, Tristan Eaton.

I'm sure there's others that I'm missing.

Q And what percentage of the tasks that Mr. McKenzie assigns to you which you say are graphic design tasks?

A Oh, my gosh. Ninety-five.

Q And of the graphic design work you do for Mr. McKenzie, about what percentage of that work involves artworks created by or attributed to Robert Indiana?

A I mean, that's hard to say. It could be -- I don't know. I mean, I can't say exactly

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ANNETTE VESSECCHIA

the same property as the studio; is that right?

A Correct.

Q And you mentioned that you sometimes assist with printing?

A Yeah. I have in the past, yes, but not very often.

Q Okay. And what does that entail?

A Could be just, like, putting things on the rack or pulling it off, like, taking it from the master printer. But, again, it's not -- it's not my title, but it is something that I have done in the past.

Q And -- and this is specifically assistance with artworks; right?

A Yes.

Q Okay. And -- and are these artworks that are attributed or created by Robert Indiana?

A They could be, or others -- I mean, other artists.

Q Okay. And the graphic design work that you conduct, is that work that's also done in connection with artwork specifically?

A Yes.

Q Okay. And -- and does that involve

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what that would be.

40 percent, 30 -- I mean, I'm trying to just give an estimate.

Q Sure.

Would you say it's about half?

A Could be, yeah. Maybe.

Q And how long have you worked for Mr. McKenzie?

A Since 2012, I believe.

Q Do you report to anybody other than Mr. McKenzie?

A No.

Q Okay. And does anybody report to you?

A No.

Q Okay. How many employees work alongside you?

A Right now or in a given time? I mean --

Q Let's start with right now.

A There's one -- only one other person in the studio besides Mr. McKenzie.

Q And who is that?

A That's Tim Ginexi. He's the master printer.

Q Okay. And do you understand

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ANNETTE VESSECCHIA

Mr. McKenzie to be employing anybody outside of the studio?

A No, I don't.

Q Okay. And what's the most amount of employees who have worked with you at the studio since you started in 2012?

A Maybe, like, five, I think, over the years.

Q So other than -- other than you and Tim, who else -- you -- you and Mr. Ginexi, who else has worked with you at the studio for Mr. McKenzie?

A It was Kate Casey from years ago. There was a printer when I first started, Zach. I -- honestly, I can't remember his last name. Then a girl named Jenna. Clara Rodriguez.

I might be leaving somebody out. I know there were some part-time people, but I'm very part-time as well. So I didn't -- I may not have, like, spent much time with them.

Q Did Oz Gonzalez work with you at the studio?

A Yes. Oh, I -- yeah. I never think of him as being -- yeah, okay. Yes, he did.

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ANNETTE VESSECCHIA

who -- who have worked with Mr. McKenzie on the studio live on the property?

A No. Oz was the only one that I know of.

Q And does he still live on the property, to your knowledge?

A No.

Q The property contains a -- a studio, an art studio, right?

A Correct.

Q It has Mr. McKenzie's residence; is that right?

A Yes.

Q And it has a residence that once belonged to Oz Gonzalez; is that right?

A Yes.

Q Are there any other structures on the property?

A Yes. There are one, two, three, four -- five other structures.

Q Five other structures.

So what are those structures?

A As you know, it used to be a dairy farm. So there's a big house with a detached garage. And then there's a -- what used to be a bull barn

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ANNETTE VESSECCHIA

Q Why don't -- why don't you think of him as -- as being part of -- part of that?

A I -- I don't -- honestly, I don't know. I just think -- I thought -- I think of him as being more of, like, just an outside kind of consultant. Although, he was around a lot.

Q And what do you mean by "outside consultant"?

A It was my understanding that he was retired and consulting as a retired attorney.

Q Did you ever observe him providing legal advice to McKenzie?

A Yes.

Q How many times would you say?

A The whole time he was there.

Q Were you involved in the conversation as well?

A I wasn't necessarily involved in the conversation. I mean, on occasion, yes. But it's a small area. So I heard lots of conversations.

Q And -- and these are conversations that you heard while -- while you were at the studio?

A Yes.

Q Okay. Do some of the -- the folks

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and two other small -- I -- I don't know -- I mean, they're just small units. I don't know what their original purpose was.

Q Do you have a pen and paper in front of you?

A Yeah. I can get one.

Q It would -- it would be helpful for this actually and some of the questions I'm going to ask you going forward, just because, you know, you named a number of structures in the property, if you could sketch out sort of what the property -- how the property is laid out with respect to each of these structures.

A Sure. Hold on. Let me get a bigger piece of paper.

Q Thanks.

A Let's see if I can get this -- shoot. Hang on. Let me do it this way. Just give me a minute. Sorry.

Okay. It's not very good because I'm not a graphic designer. I'm not a person that does this kind of thing, but --

Q Great. That's super helpful.

A Can you see it?

ANNETTE VESSECCHIA

Q Yes.

So I'm going to ask -- I don't -- I don't know if you have a phone with you, but if you can take a picture of that --

A Sure.

Q -- and e-mail to or send it to -- to -- to Ms. Zerner?

A Sure.

MR. RAKOWER: And then, Bridget, maybe we can send that to the -- the court reporter to be marked it as an exhibit.

MS. ZERNER: Sure.

MR. RAKOWER: Maybe at a break, if -- if that's easier.

THE WITNESS: Does it need -- what does it need to be a PDF or a jpeg, or does it matter?

MR. RAKOWER: I -- I don't think it matters.

THE WITNESS: Okay. I'm getting, like, a shadow. Sorry. I'm not sure I can --

MS. ZERNER: And which address --

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which address should I send it to, the -- the general Magna one or should I send it directly to someone?

COURT REPORTER: Maybe you want to put it in the Chat?

THE WITNESS: Bridget, do you want me to text this to you or e-mail it?

MS. ZERNER: E-mail it, please, if you can do that.

BY MR. RAKOWER:

Q Okay. And, Ms. Vessecchia, you can hold on to that sheet of paper. We'll return to it in a bit.

So I -- I do want to ask you -- so -- what -- what are those other structures on the property used for besides the studio and Mr. McKenzie's residence?

A They're rental -- rental units.

Q Okay.

A Except for one small -- it's "Small 3" --

THE WITNESS: Hold on -- hold on. Let me -- let me just send this to Bridget.

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Okay. Bridget, I just sent that.

A There's one that I labeled "Small 3." And that was a -- actually, I think it used to be a sauna at some point, but I think it's just, like, used as an extra, like -- there's a bed in there. I don't -- I don't know exactly what it's used for, but there's nobody living in that structure.

BY MR. RAKOWER:

Q Okay. And does Mr. McKenzie own all these -- all these units?

A Yes.

Q Okay. And so you mentioned they're rentals.

Does he -- does he rent them out as residences to -- to other individuals?

A Yes.

Q Okay. And do those other individuals work with him or are they just living there?

A No. They're just living there.

Q Okay. And do you know what -- are -- are each of the -- the units occupied right now?

A I think they're all occupied except for the one that Oz lived in.

ANNETTE VESSECCHIA

Q Okay. And that one is currently empty?

A As far as I know. I've been out of town this week. So unless somebody's moved in.

Q Okay. And I just want to talk for a bit about how you communicate with Mr. McKenzie.

A Sure.

Q Do you ever e-mail with him?

A Yes.

Q Okay. And do you text message with him?

A Yes.

Q Do you use any instant messenger applications to -- to correspond with --

A No.

Q Okay. Is there any other way of communicating with him that involves -- sorry.

You can strike that question.

How else do you communicate with him?

A I -- by phone.

Q And I assume you communicate with him in person?

A Yes. Oh, yes.

Q Okay. So we have in person, by phone, text message and e-mail.

Is there any other way that you

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1 ANNETTE VESSECCHIA
 2 communicate with him?
 3 A No.
 4 Q Okay. Have you ever been deposed
 5 before?
 6 A No.
 7 Q Okay. And did you prepare for today's
 8 deposition?
 9 A Not sure by -- I'm not understanding the
 10 question fully. What --
 11 Q So you -- you received a -- a subpoena
 12 for today's deposition; right?
 13 A Yes.
 14 Q Okay. Did you do anything to prepare
 15 yourself to testify today to in connection with
 16 that subpoena?
 17 A You mean, like, get coached? I -- I
 18 still don't understand.
 19 (Whereupon, there was an
 20 interruption.)
 21 THE WITNESS: Hold on. Let me
 22 close the door. Hold on.
 23 A Are you talking about, like, get coached
 24 or look at -- I -- I don't -- I don't --
 25

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1 ANNETTE VESSECCHIA
 2 Did you write anything to -- write
 3 anything new to produce --
 4 A No.
 5 Q -- for this meeting?
 6 Okay. Did you prepare any outlines or
 7 memorandum or -- or any notes on what you should
 8 testify about today?
 9 A No.
 10 Q Okay. Did you discuss today's
 11 deposition with Ms. Zerner or Mr. Markham?
 12 A Yes.
 13 Q Okay. With both of them or just with
 14 Ms. Zerner?
 15 A With both.
 16 Q Okay. When was that?
 17 A I couldn't tell you exactly when it was
 18 with Mr. Markham. Weeks ago.
 19 And then I talked to Ms. Zerner last
 20 week, yesterday, and there could have been a
 21 handful of other times.
 22 Q Were these -- were these conversations
 23 in person or over the phone?
 24 A I had one conversation in person.
 25 Q Okay.

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1 ANNETTE VESSECCHIA
 2 BY MR. RAKOWER:
 3 Q Sure.
 4 So did you review documents --
 5 A Yes. I did -- I had to prepare some
 6 documents and -- yes, of course I looked at them.
 7 Q So you mentioned you had to prepare some
 8 documents.
 9 What kind of documents are those?
 10 A Whatever they were asking for in --
 11 in -- I don't even know how to say it -- in
 12 regards to, I guess, the subpoena.
 13 Q And who's "they"?
 14 A Whoever wrote the subpoena. I'm sorry.
 15 I'm, like -- I -- I don't --
 16 Q So are you -- are you saying that you --
 17 you needed to gather documents to produce to -- to
 18 Morgan Art Foundation in response to the document
 19 request in the subpoena?
 20 A Yes.
 21 Q Okay. Did you prepare any new documents
 22 to produce?
 23 A You mean, did I actually write something
 24 or did I -- again, I'm not understanding fully.
 25 Q Sure.

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1 ANNETTE VESSECCHIA
 2 A I -- with Ms. Zerner.
 3 Q Okay.
 4 A And one conversation -- actually, you
 5 know what? I may have had -- 'cause Mr. Markham
 6 was at the studio. So I can't say that I -- I
 7 didn't see him in person.
 8 Q Okay. And the conversation you're
 9 talking about with Ms. Zerner, how long was that?
 10 A I don't know. An hour.
 11 Q Did Ms. Zerner or Mr. Markham show you
 12 documents to prepare you for the deposition?
 13 A Just another copy of the subpoena,
 14 because I didn't have one in front of me.
 15 Q You didn't look at any other documents
 16 or notes to prepare for this deposition?
 17 A Not that I recall.
 18 Q Okay.
 19 A I'm sorry -- I'm so sorry. My dog is
 20 here, and I may have to open and close the door
 21 just to keep him from barking. So hold on.
 22 MR. RAKOWER: Bernadette, if you
 23 want to put Tab 11 -- if you want to
 24 share the screen with Tab 11, I'm going
 25 to go to that.

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1 ANNETTE VESSECCHIA
 2 MS. ZERNER: And can I check if the
 3 photo came through --
 4 MR. RAKOWER: It did.
 5 MS. ZERNER: -- of the map?
 6 MR. RAKOWER: It's in -- it's in
 7 the Chat.
 8 MS. ZERNER: Okay.
 9 MR. RAKOWER: Actually, why don't
 10 we -- okay. We'll start with this.
 11 COURT REPORTER: So is this is --
 12 mark this as an exhibit?
 13 MR. RAKOWER: Yes. Can we mark
 14 this as Exhibit 1? The -- the subpoena
 15 is Exhibit 1.
 16 (Whereupon, Plaintiff's Exhibit No.
 17 1, Subpoena, was marked for
 18 identification.)
 19 MR. RAKOWER: And we'll go to
 20 what's in the Chat next, but let's start
 21 with this.
 22 BY MR. RAKOWER:
 23 Q Okay. Ms. Vessecchia, are you able to
 24 see the -- the document on the screen?
 25 A Yes.

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1 ANNETTE VESSECCHIA
 2 Q Okay. And you see that it directs you
 3 to testify today?
 4 A Yes.
 5 Q Okay. And you see that it also directs
 6 you to -- to produce documents?
 7 A Yes.
 8 Q Okay.
 9 MR. RAKOWER: If we can go to -- to
 10 PDF page eight. It -- it should have a
 11 number 5 on the bottom of the screen,
 12 but it's page eight of the PDF.
 13 Right. Yeah.
 14 BY MR. RAKOWER:
 15 Q And you see it says, "Documents
 16 requested"?
 17 Do you see that?
 18 A Yes.
 19 Q Okay. And these were documents that --
 20 that Morgan Art Foundation requested for you to
 21 produce in connection with this subpoena.
 22 Do you understand that?
 23 A Yes.
 24 Q Okay. Could you generally describe what
 25 efforts you took to collect and produce documents

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1 ANNETTE VESSECCHIA
 2 Q Okay. Do you recognize this document?
 3 A Yes.
 4 Q Okay. What is it?
 5 A The subpoena for me to testify at this
 6 deposition.
 7 Q Okay. And is this the document that --
 8 that you were shown by -- by Mr. Markham and
 9 Ms. Zerner?
 10 A Yes.
 11 MR. RAKOWER: I'd like to mark this
 12 as Exhibit 1. Okay.
 13 MS. ZERNER: I assume, Ryan, this
 14 has the -- this is the first page. Does
 15 this have your document request after it
 16 as part of --
 17 MR. RAKOWER: Yes.
 18 MS. ZERNER: -- the exhibit?
 19 MR. RAKOWER: Yes, it does.
 20 BY MR. RAKOWER:
 21 Q Okay. Ms. Vessecchia, did -- did you
 22 read this document in full?
 23 A As best as I could. I mean, it's --
 24 it's very difficult to understand, but, I mean, I
 25 get the gist of it.

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1 ANNETTE VESSECCHIA
 2 in response to this subpoena?
 3 A I just -- I went to text messages, tried
 4 to figure out how to get those out of my devices
 5 and to -- to Bridget. I looked through any old
 6 e-mails.
 7 It was basically looking through e-mails
 8 and just to see if I had anything concerning what
 9 the request was.
 10 Q Okay. And for the text messages, how
 11 did you determine which -- which text
 12 conversations to provide to Ms. Zerner?
 13 A Well, I -- I believe most of what I
 14 provided were the text messages I had with Oz.
 15 Q And what made you decide to produce the
 16 text messages with Oz as opposed to text messages
 17 with other individuals?
 18 A I didn't really text with anybody. I
 19 mean, I could have texted with Mike, but I -- I
 20 didn't feel like it really -- really concerned
 21 what was being requested.
 22 Q Okay. You testified earlier that --
 23 that you -- you have text messages with Michael
 24 McKenzie; right?
 25 A Yes.

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ANNETTE VESSECCHIA

Q But you -- you -- you went through those text messages and determined that they would not be responsive to their -- the document request by Morgan Art Foundation?

A The messages that I have left of what I still have, correct.

Q You -- you mentioned what you still have.

Did you at one point have text messages with Michael McKenzie that -- that you believe are responsive to these document requests?

A It's possible. I had to get a new phone. So any text messages that I had on my old phone, I was not able to -- to get. I mean, the phone was run over, smashed. So I couldn't get anything.

Q And when did you -- when did you get a new phone?

A Man, I'm not even sure. I'd have to look.

In August.

Q Is that August of -- of 2021?

A '21. Yeah, 2021.

Q Okay. Were you able to uncover any text

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ANNETTE VESSECCHIA

messages from prior to August of 2021?

A Yeah. I could get some that had been on my iPad, but they -- but those were only messages that had to do with Oz.

Q Okay. And did you show the text messages between you and Mr. McKenzie to your counsel?

A I don't -- I mean, I think I gave her some e-mails, but I don't -- I don't think I produced any with Mike.

Q Okay. So you -- you looked at them yourself and determined that they were nonresponsive?

A Yes.

Q Okay.

Okay. One moment.

A You know -- yeah.

Q No. What were you going to say?

A There could have been a group text message in there that Mike was involved with that I produced.

Q Okay.

A I just -- I'm trying to be a hundred percent honest.

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ANNETTE VESSECCHIA

Q Sure.

And -- and -- and before you received this subpoena, had you been asked before to -- to produce any -- any text messages or e-mails to lawyers?

A Yes. I'm not sure about the text messages, but definitely e-mails.

Q Okay. We'll get back to that in a second. I just want to go through these document requests, because you -- you did mention that -- you mentioned that there were parts of the subpoena that you possibly didn't understand, and I just want to go through them.

A Yes.

Q So documents and -- so let's start with number one, where it says, "Documents and communications relating to or concerning McKenzie or AIA's fabrication of Robert Indiana works."

Do you understand what this is referring to?

A Yeah. But I -- I was thinking that it had anything to do with what had been requested after Oz's declaration, I guess. Any documents that had already been produced, I don't know that

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I produced those again.

Q So you didn't undertake any effort to -- to -- to produce documents that predated Mr. Gonzalez's declaration in response to the subpoena?

A I probably didn't do a lot because I assumed that they already had them.

Q Okay. So you --

A Again, I've -- I've never done this before. So I -- I don't know --

Q And -- and by "they," you're referring to Morgan Art Foundation; right?

A Yeah. Or if Mr. Markham needed anything.

Q And when -- when did you provide the documents that you provided to your lawyers?

A I think on Sunday.

Q Okay. Okay. And let's start with this -- this first category where it's discussing documents, communications relating to or concerning McKenzie or -- or AIA's fabrication of Robert Indiana works.

I'm sorry. I -- I'm not sure I got a clear answer to this.

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You understand what this is referring to; right?

A I -- I thought I did, but now I'm wondering if I didn't just because what you're asking.

Q Well, what's your understanding of what this is asking for?

A Well, I was thinking that it had anything to do with what Oz was claiming in his declaration about fabrication of Robert Indiana -- of any works.

MR. RAKOWER: If we can go to the next page of the -- of the subpoena.

Okay.

BY MR. RAKOWER:

Q If you look at the last document request, it asks for -- do you see that it asks for documents --

A Yes.

Q -- that you --

A Yes.

Q -- that artworks --

(Whereupon, the court reporter requests clarification.)

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Q Okay. And you see that that relevant time period spans from January 1st, 1990 -- 1990 until the present?

A Yes.

Q Okay. So I want to go from -- to -- to your recollection of the text messages that you had with Mr. McKenzie that you since have not been able to uncover.

Do you have text messages that relate to this first category of requests?

A Not anymore. Maybe.

Q But you once did; is that right?

A Possibly. I mean, I don't know that they really have to do with fabrication of -- I mean, I didn't text with Mike about fabrication of Indiana works or really anybody.

Q What did you text with Mr. McKenzie about?

A Like, I'm running late, or maybe Mike's out of town, and I'm not going to be back at the studio until, you know, whatever time.

It wasn't about anything -- or it could be, you know, why don't you work on, you know, XYZ today, but not really a lot of that. I mean, I --

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BY MR. RAKOWER:

Q Yes. Let me --

I'm sorry, Ms. Vessecchia. Let me finish the question so it's clear --

A Sure.

Q -- for the record.

Do you see there that this -- this requests documents related to the events, facts, artworks or circumstances described in the attached declaration of Osvaldo Gonzalez?

A Yes.

Q Okay. So you understand that one of the categories of documents that we -- that Morgan Art Foundation requested has to do with what's in Oz Gonzalez's declaration; correct?

A Yes.

Q Okay. But if we go back one page to the first category of documents, and if you --

A Okay.

Q -- look at the -- the instruction right above number one, it talks about a relevant time period.

Do you see that?

A I do see it.

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I -- I mean, I can't remember. This has been over -- I mean, that would be ten years or more worth of stuff.

But I -- I didn't do a lot of texting with Mike, no.

Q Okay. Did you have any -- let's go to document request number two. It discusses McKenzie or AIA's storage of Robert Indiana works.

Do you see that?

A Yes.

Q Did you have any text messages with Mr. McKenzie regarding this topic?

A There was -- I don't think so. The only storage we have -- and I feel like -- are you talking about what's stored at the studio or what's stored offsite?

Because I'm only familiar with offsite storage of recent.

Q And you're not familiar with storage of artworks at the studio?

A Yes. I -- yes. I'm -- I -- I was talking specifically about offsite.

Yes, I -- I'm -- I'm aware of where things are stored. Maybe -- I mean, I may not

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have a full, like -- you know, don't know where ever single thing is, but --

Q And --

A Yeah. I mean, I worked there. So --

Q Okay. And -- and so did you ever have communications with Mr. McKenzie about where artworks were stored?

A I -- I don't think so. That would have been something we would have talked about in person.

Q Okay. Let's go to request number three. It discusses the transportation of -- of Indiana artworks.

Do you see that?

A Yes.

Q And did you have any text messages with Mr. McKenzie regarding the transportation of -- of Robert Indiana artworks?

A Not of current. There could have been, you know, something dated prior to when I got a new phone. But, again, I believe that was e-mail.

Q Okay. So you have -- you have e-mails with Mr. McKenzie concerning the transportation of Robert Indiana artworks?

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again, that I would have likely not have been directly involved with. Like, maybe if it had something to do with Rosenbaum or something like that, maybe, but really I -- I wasn't a part of that.

Q So when you say "directly involved with," would you be indirectly involved with any of that?

A Well, if I -- I mean, I guess if they needed a -- a photo or whatever, then I might have to send it, but I wouldn't have been saying -- you know, actively participating in the sale of a Robert Indiana work.

Q And -- and who would be the primary individuals involved with that?

A That would have been Mike. I guess maybe the bookkeeper. I -- I don't know. That's a part of the business that I just am not a part of.

Q Who's -- who's the bookkeeper?

A Lucy Ann.

Q What's her last name?

A That's a really good question. I'm not sure I know the answer to that. Lucy Ann -- hold

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A There were a couple e-mails that we were all copied on, you know, just Mike letting us know what he wanted to do.

Q Okay. And you see that category number four is -- is -- discusses -- it -- it cuts off on this page and goes on to the next page?

A Yes.

Q Do you see that it discusses the sale of Robert Indiana artworks?

A Yes.

Q Okay.

MR. RAKOWER: If we could flip to the next page. Okay.

BY MR. RAKOWER:

Q And did you have any communications with Mr. McKenzie regarding the sale of Robert Indiana artworks?

A No. I didn't have anything to do with sales.

Q Okay. And have -- and I assume your answer is the same for -- for request number five, which refers to efforts or attempts to sell Robert Indiana artworks?

A I mean, that would have been something,

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on one second. Let me see if I could find Lucy Ann.

Q Yeah. That's okay.

A Young.

Q We'll refer to --

Lucy Ann Young. Got it.

A Yes.

Q Okay. So the next -- the next -- the next category, it's -- it's category number six. It discusses efforts or attempts to conceal Robert Indiana works?

A No, I don't know anything about attempting to conceal Robert Indiana works.

Q You don't have any communications regarding that?

A Not regarding concealing Robert Indiana works, no.

Q Okay. And the next category is number seven. It discusses attempts to transfer Robert Indiana works.

Did you have any communications with Mr. McKenzie regarding this --

A What do you --

Q -- transfer --

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A What do you -- what is -- what do you mean by transfer?

Like, transfer physically? Like, moving?

Q Okay.

A I mean, that's kind of a big --

Q Well, let's -- we can start with -- we can start with transfer physically; right?

Transfer the actual artwork from one place to another, did you have any communications with McKenzie regarding that?

A Again, that would have been something that we would have talked about in person.

Q Okay.

A I mean, maybe there was an e-mail again saying, you know, Let's meet at whatever time, you know.

Q And then with regard to -- let's -- let's, you know, sort of discuss transfer of -- of rights to an artwork; right?

Do you have any communications regarding that with Mr. McKenzie?

A I don't -- I'm not -- I don't even understand what that means. But probably not.

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a signature for a variety of reasons.

Q And what -- what would those reasons be?

A I -- I mean, I couldn't say. I mean, I guess you could be signing a check or you could be signing artwork or books or whatever you might want to use it.

Q Have you ever signed your -- your own signature with a -- with a Ghostwriter?

A No.

Q Okay. Whose signature have you seen being signed with a Ghostwriter machine?

A Are you talking about my time with American Image? I -- I mean, I was familiar with the machine before I worked there.

Q Okay. Let's -- let's -- let's keep it specific to -- to your time working for Mr. McKenzie.

A Okay. Yes, I saw a Robert Indiana signature with the Ghostwriter.

Q Did you see anybody else's signature being signed with the Ghostwriter?

A No.

Q Okay. Do you have any -- did you have any communications with Mr. McKenzie regarding the

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But what -- what do you mean, "transfer rights"?

I mean --

Q Do you understand what -- what intellectual property rights are with respect to an artwork?

A Not really. I mean, doesn't the -- I mean, the right belongs to the artist --

Q Okay.

A -- but I -- I don't know.

Q Okay. Let's move on to the next category, number eight.

A Okay.

Q And it discusses the affixation of Robert Indiana's signature or emblem on Robert Indiana works, including through use of a stencil or a Ghostwriter.

Do you see that?

A Yes.

Q Okay. Do you know what a Ghostwriter is?

A I do.

Q Okay. What's a Ghostwriter?

A It's a machine that is used to duplicate

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use of the Ghostwriter or a stencil to sign Mr. Indiana's signature?

A I wouldn't have had communications 'cause that was prior to me getting there.

Q What was prior to you getting there?

A I -- I honestly cannot recall if the machine came about right as I started or just after I started, but it would not have been bought -- I wouldn't have been involved in any written communications about it.

Q Okay. And by "came about," do you mean Mr. McKenzie acquired the machine either before you started or just after you started?

A Yes. But that wouldn't have -- the acquiring of the machine wouldn't have been -- I may have -- I may have found documents, but no, like, e-mails or text messages about it.

Q Okay. So you never texted about using the Ghostwriter to sign a --

A No.

Q -- Indiana signature?

And what about using a stencil?

(Whereupon, the court reporter requests clarification.)

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BY MR. RAKOWER:

Q I asked, "You never texted about using a Ghostwriter to sign Indiana's signature?"

Is that --

A No.

Q Okay. And did -- have you ever texted about using a stencil to sign Mr. Indiana's signature?

A Not to sign his signature, no.

Q How else -- in what other context would you have texted about a stencil?

A I don't even know that I would have -- that would have been something that I would have talked about in person.

Q Okay. And what other uses for a stencil did you have in connection with your work for Mr. McKenzie?

A Well, stencil was used for the back -- Indiana signs not -- I don't want to say "signs," but authenticated or whatever his paintings for years with a stamp on the back.

And so that was something that he also wanted when it came to canvases that he and Mike worked on together. The back was -- was an

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brings us to this next document category. It's number nine. And it discusses documents and communications concerning Robert Indiana's authorization, approval or permission for McKenzie or AIA to sign Indiana's signature on Robert Indiana works.

Do you see that?

A Yes.

Q Okay. And you mentioned that -- that Mr. McKenzie would have discussed that topic with you; is that right?

A Yeah. Well, he would have said, I want you to do this.

Q Do what?

A Either use the seal or -- excuse me -- the -- yeah, artist seal or, you know, use the Ghostwriter.

Q And is that something that you do for Mr. McKenzie in connection with your -- your graphic design work for him?

A Yes.

Q About how many times have you used a Ghostwriter to -- to sign Indiana's signature on an artwork?

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artist's seal.

Q And is -- is that the same as an emblem?

A I guess. I don't know what -- I mean -- sure. I mean, we call it an artist's seal, but some people call it a stamp or a stencil.

Q Okay. And did you ever text about using the stencil to stamp the -- the artist's seal on any artworks?

A I don't think so.

Q Okay. And by the way, you -- you were discussing some of Mr. Indiana's authorizations or desires.

Did Mr. Indiana tell that to you personally?

A No.

Q How did you come to understand what -- what he desired or -- or had authorized with respect to -- to his emblem?

A That would have been something that Mike -- I mean, that was -- you know, that was Mike's. He discussed everything with Mike, and then Mike, you know, would tell me or us or whoever.

Q Okay. And so that -- that actually

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A It was only one group of editions, the Four Seasons of Hope. That was it.

Q The Four Seasons of Hope is the only artwork that -- that you've seen a Ghostwriter sign Mr. Indiana's signature on?

A Correct.

Q To your knowledge, is that the only artwork that Mr. Indiana -- that -- sorry. Strike that.

To your knowledge, is that the only artwork that the Ghostwriter has been used on?

A Yes. To my knowledge, yes.

Q Okay. Do you have an understanding of whether Mr. Indiana authorized the use of the Ghostwriter?

A Yes. I -- I believe that he did.

Q And what's the basis for that belief?

A Well, I -- I found a document with his signature on it, which I -- I believe I gave to Bridget.

I also overheard conversations, multiple conversations of Indiana complaining about having to sign that particular edition because there were -- well, "Four Seasons," so eight times

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approximately 200. So that's 1600, probably close to 2,000 after you add in, you know, artist proofs and printer's proofs and such.

And he was freaking out that he was going to have to sign that many and that Mike needed to find another way to make that happen.

Q Was that a conversation that you were -- that occurred in person?

A I -- I mean, it wasn't directly involving me, but I could hear the conversation, because Mike sits right behind me, and he usually uses a speakerphone. So --

Q This was a conversation by phone?

A Yes. With -- Between Mike and Indiana.

Q Okay. When was this?

A Oh, man. Right after I started working there. So it would have been back in 2012, probably.

Q Okay.

A I vividly remember it, because I had just started working there.

Q Okay. And had you met Mr. Indiana before that?

A No.

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Q Had you ever spoken to him on the phone before that?

A No. I've never spoken to him on the phone, period.

Q Okay. Is that the only time that you've heard Mr. Indiana's voice?

A No. I heard it many times over the years working for -- are you talking about was that the first time I had heard his voice?

Q Sure. Let's start with that.

Was that the first time that you had --

A Yes.

Q -- heard Mr. Indiana's voice?

A Yes.

Q Okay. Did you recognize it to be Mr. Indiana's voice?

A Well, no. Because, I mean, only when Mike picked up the phone and said, "Hey, Bob." He said, "Hey, Mike."

I mean, you could -- you know, I could tell who it was.

Q Okay. And so Mr. Indiana was upset during that conversation?

A Yes.

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Q Okay.

A There were several conversations, but that was the first one that I recall.

Q Okay. And he was upset because he would have had to sign his signature close to 2,000 times --

A Yes.

Q -- on editions of Four Seasons of Hope?

A Yes.

Q Okay. And what else did Mr. Indiana say on that call?

A I can't remember exactly what -- you know, what else they may have talked about, but I just remember it vividly because in my mind I thought, "Oh, my gosh. This is, like, a famous artist that I studied in school and I'm hearing his voice. And wow, he's complaining a lot."

Q So you remember that the conversation began with something along the lines of Mr. McKenzie saying, "Hi, Bob"?

A Yes.

Q Okay. And you remember that it was on speakerphone?

A Yes.

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Q And then you remember that Mr. Indiana was upset that he would have to sign his name many times on an artwork, Four Seasons of Hope?

A Yes.

Q Do you remember anything else that occurred during that conversation?

A He -- he mentioned, "Isn't there a machine for this?"

And Mike said, "I -- you know, probably, but I'm not sure about that."

And he was, you know, almost refusing to not, you know, deal with it. He may have actually signed some of them. I -- I don't know. But there was one part of the edition for sure that he was like, you know, "I'm not going to do it. It's too much. I can't stand that."

And Mike was trying to make it work and, you know, "We'll do whatever, you know, to make you comfortable. I mean, I can look into the -- into the machine."

And that was the first time that he talked about the machine. And then I don't remember -- I mean, there could have been some other conversations about it, but -- but that was

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1 the first one that I remember.

2 Q Okay. So you recall Mr. Indiana during
3 that phone call on speakerphone, after complaining
4 that he'd need to sign his name so many times on
5 the Four Seasons of Hope, asking if there was a
6 machine that could sign his name?

7 A Yes.

8 Q Okay. And what do you remember
9 Mr. McKenzie's response being?

10 A Well, he wasn't crazy about it, you
11 know. He was like, "I -- you know, I'll look into
12 it. I -- it's been done, I know."

13 And then Indiana was basically, you
14 know, saying, "I'm not going to sign it unless we
15 can do it with the machine."

16 I mean, that was the assumption that I
17 kind of made. He was just very upset and whining
18 about it.

19 Q Okay. So you didn't hear
20 Mr. McKenzie -- Mr. Indiana say that he wouldn't
21 sign it without a machine on that call? You
22 mentioned that was an assumption you made?

23 A No, I mean, he said in some way, "You
24 know, I don't think I'm going to be able to do it
25

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1 and -- I mean, it just -- he didn't feel like he
2 was up to it.

3 Q So Mr. McKenzie expressed reluctance on
4 the call to Mr. Indiana to use a machine?

5 A Yes.

6 Q Okay. What did Mr. Indiana respond
7 with?

8 A He whined and basically was like, "Well,
9 you've got to figure this out because I can't sign
10 that many pieces."

11 Q And how did Mr. McKenzie respond?

12 A He said, "Okay. I mean, I'll look into
13 it and I'll get back to you."

14 And, you know, I don't know what -- I
15 don't remember what else they discussed. I mean,
16 I feel like the majority of that conversation was
17 that, you know.

18 Q So you don't recall anything else being
19 discussed on that call?

20 A I don't.

21 Q Okay. And you don't recall an agreement
22 being made on that call that the Ghostwriter would
23 sign Mr. Indiana's signature on artworks?

24 A No, not on that call.
25

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1 unless we can get, you know, a machine to help."

2 Q And you said that Mr. McKenzie was
3 unwilling to use a machine?

4 A Yeah. Originally, yeah. He was not
5 crazy about it.

6 Q And why -- why not?

7 A Because he -- in my opinion, he, you
8 know, would rather the artist, you know, sign it
9 in person, like, you know, he -- like he always
10 did with -- with other artists. So, you know, I
11 think he just wasn't -- I just think it was his
12 history to not use a machine.

13 Q It was not common practice to use a
14 machine?

15 A Not from my -- not for Mike. I mean, it
16 could -- could be for other artists. I've
17 never -- I mean, I've -- I have heard of it being
18 done, but you know, I don't know -- I don't know
19 that it's uncommon, but I don't know that it's
20 very common either. It's always nice to have the
21 artist, you know, actually sign it.

22 Q Okay.

23 A But I can also understand. He was
24 probably in his, 70s, you know, and he was frail
25

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1 Q Okay. Do you recall a future
2 conversation -- a conversation with Mr. Indiana
3 that occurred subsequently to that call regarding
4 the Ghostwriter?

5 A I believe there were some calls after
6 that, after Mike had, you know, done the research.
7 But honestly, I -- I can't remember what they
8 talked about.

9 The next thing I knew, we just had the
10 machine. So it was, you know, I --

11 Q So --

12 A -- felt like they must have come to an
13 agreement.

14 Q So you felt like they must have come to
15 an agreement, but you didn't witness them coming
16 to an agreement?

17 A I did not witness them coming to an
18 agreement.

19 Q Okay. And you -- you can't recall any
20 other call where Mr. Indiana said, "You can use
21 the Ghostwriter to sign my name"?

22 A No. I just recall him insisting on
23 using a machine or complaining about signing that
24 particular edition.
25

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Q Okay. And that was just a discussion regarding the Four Seasons of Hope?

A Yes.

Q Okay. It wasn't a discussion of -- about any other artwork?

A Not that I heard.

Q Okay. And you -- and you can't recall any conversation with Indiana where Indiana gave authorization or permission for the Ghostwriter to be -- to be used to sign his name on any other artwork?

A No.

Q Okay.

A I mean, I'm not saying that it didn't happen. I just may not have been there.

Q Okay.

A But it was never used for anything but that to -- to my knowledge.

Q We'll get back to that in a second.

I want to move on to -- to number ten, where it discusses documents and communications concerning McKenzie's or AIA's efforts to -- or attempts to establish trusts to hold Robert Indiana works?

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But I don't know that I've fully -- hold -- hold on. I -- can I just read it real quick?

Q Yeah. It's -- it's a long document --

A Yeah, I mean, I -- I got the gist of it. So yeah, I -- I've seen it. I never could fully understand it, but --

Q You understand that this document was attached to the subpoena that was sent to you?

A I actually am not sure that this was attached because I was just looking at the -- I mean, I -- I've seen this before, but I don't think I realized that it was part of the subpoena.

Q I'll -- I'll represent to you that -- that the subpoena that we -- we sent to Ms. Zerner included this as part of the subpoena.

A Okay.

Q And do you understand that the subpoena called for the production of documents that relates to the facts and allegations in this complaint?

A I -- I mean, I understand that now. But I'm not -- I -- again, I didn't put forth any more documents than I had already put out.

Because wasn't this -- oh, hold on.

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A No, I -- I don't know anything about that.

Q And you never had any communications about that?

A No, I'd never even heard of it until I got the subpoena -- or got the declaration from Oz.

Q Okay.

A That Oz sent.

Q Okay. Number 11 says, "Documents and communications concerning any of the issues and alleged facts in the complaint."

Do you see that?

A Yes.

Q Okay. Did you see that there is a complaint attached to the subpoena?

A A complaint from Oz or -- I -- I'm not sure.

MR. RAKOWER: All right. So if we can go to PDF page 16.

BY MR. RAKOWER:

Q Do you recognize this document?

A I mean, I've probably seen it over the -- you know, off and on over my time there.

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Wasn't this -- this was put out before I received the subpoena.

MS. ZERNER: You know, and I will add here that we -- you know, I know that the subpoena was due today, Ryan, and because of the timing of getting documents and getting them to you and I wanted to make sure you had documents to look at to use for this deposition, we'll get you a written response today to the subpoena.

To this particular request, we'd make an objection that it's overbroad and calls for documents that were already produced. You know, we'll review this if -- if there's anything more that's called for.

MR. RAKOWER: All right. We'll -- we'll reserve the -- the rights to -- to oppose that objection, including because it's untimely.

But we'll -- we'll -- we'll make a reservation of rights at the conclusion of the deposition with regard to the --

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the document productions that -- that
have been made.
BY MR. RAKOWER:
Q But one thing, Ms. Vessecchia, I just
want to establish: You didn't -- you didn't --
when -- you did not read this complaint at the
time that you received the subpoena and collected
documents for production; is that right?

A No.

Q Okay.

MR. RAKOWER: I want to go to
page 24 of the complaint. And I
apologize that I don't know what the PDF
page is going to be. It may be
something -- I think it may be 39.

Okay.

A Okay.

BY MR. RAKOWER:

Q And we were discussing the Ghostwriter
before. And you see there's an image on this
page.

And do you see that there's a machine
using a pencil to sign a signature?

A Yes.

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A Yes.
Q Okay. Do you recognize that signature?
A Yes, it looks like -- yes.
Q And what is that signature?
A It looks like Robert Indiana's
signature. I mean, it's blurry but --
Q Okay. And -- and you mentioned before
that -- that you -- you'd never seen or observed
Robert Indiana providing permission or
authorization for -- for his name to be signed
on -- on The Alphabet artwork?

A Not that I heard, no. I don't even know
where this is.

Q All right. We'll get back to this.

A Okay.

MR. RAKOWER: If -- if -- if we
could go back to PDF page six --
page nine, I'm sorry. PDF page nine.

BY MR. RAKOWER:

Q Okay. And do you see the last document
request is, "Documents related to the events,
facts, artworks, or circumstances described in the
attached declaration of Osvaldo Gonzalez."

Do you see that?

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Q Okay. Is that the Ghostwriter?

A I -- I don't -- I mean, I guess. I
can't see the whole machine and so I only
witnessed it being used the one time, so --
Yeah, I mean, I -- I -- I can't see the
machine so I don't know.

Q Well, I'll show -- I'll show you
something in a second but --

A Okay.

Q Is there anything in this picture that
looks different than the Ghostwriter that you've
seen being used?

A Yeah, the -- the piece of artwork. I
mean, this is the first time I've seen this.

Q Okay. And what piece of artwork is
that?

A It looks like The Alphabet.

Q Okay. And The Alphabet is not the Four
Seasons of Hope?

A Correct.

Q Right?

A That's correct.

Q Okay. And do you -- do you see there's
a signature on the artwork?

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A Yes.

Q Okay. And do you see -- if we go to the
next page, do you see there's a declaration?

A Yes.

Q Do you recognize this?

A Yes.

Q Did you review this?

A Yes.

Q Okay. And did you have communications
with Mr. McKenzie about any of the -- the facts or
artworks or events or circumstances that -- that
are alleged in the declaration?

A Yeah. I mean, it was just, you know,
random e-mails, like him being upset and it being
ridiculous and -- but yeah, I -- I -- whatever I
had, I turned in.

Q Okay. You mentioned that he was upset?

A Yeah. Mike was upset. I would say.

Q What did he say to you?

A He -- he was completely flabbergasted.

Q You mentioned that he said it was
ridiculous?

A Yes. I mean, can -- you know, it sounds
like something he would say.

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But yeah, he was very upset.

Q Okay. And what -- what in particular upset him?

A Well, I think he was upset by what Oz was claiming.

Q And what was that --

A It's hard to even look at this because number two, he didn't meet McKenzie in 2008 or 2009 because Mike didn't have the property then.

So I mean, that's beside the point. But just everything about it.

And at the same time that we got a -- or that he saw this, we found out that Oz had been disbarred.

And so that was in itself a huge slap in the face to me, to Tim, to Mike. I mean, it was shocking, to say the least.

Q Okay. We'll discuss this more in a moment.

A Sure.

MR. RAKOWER: Maybe it's a good time for us to mark the exhibit that was posted in the chat.

Can we pull that up?

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TECHNICIAN: Give me one moment.

THE WITNESS: Ryan, do you mind if I just go to the bathroom real quick while we're waiting?

MR. RAKOWER: Yeah, we're going to take a break in -- in, like, literally a minute once I'm --

THE WITNESS: Oh, okay. Yeah, that's fine then.

MR. RAKOWER: So will that work for you?

THE WITNESS: Sure.

MR. RAKOWER: Okay. So let's just wait for the exhibit to -- to come up.

Bernadette, are you able to access the exhibit that was posted in the chat?

TECHNICIAN: Yes. I'm just trying to get it on the screen right now. One second. I'm sorry.

MR. RAKOWER: Okay.

TECHNICIAN: Can everybody see that?

THE WITNESS: Yes, I can see it.

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BY MR. RAKOWER:

Q Great. So Ms. Vessecchia, do you recognize this document?

A Yes.

Q Okay. This is a -- this is a map of -- or a sketch of -- of Mr. McKenzie's property that you prepared?

A Yes.

Q And that you prepared that just to -- you know, moments ago when we were discussing it?

A Yes.

Q Okay.

MR. RAKOWER: I'd like to mark this as Exhibit 2.

(Whereupon, Plaintiff's Exhibit No. 2, Sketch of Mr. McKenzie's Property, was marked for identification.)

MR. RAKOWER: And then I'm -- I'm ready to take a break. We can take a ten-minute break.

Does that work for everybody?

THE WITNESS: It works.

MR. RAKOWER: Great. All right.

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THE VIDEOGRAPHER: Off the record at 11:30 a.m.

(Whereupon, there was a recess taken from 11:30 a.m. to 11:41 a.m.)

THE VIDEOGRAPHER: On the record at 11:41 a.m.

MS. ZERNER: And I -- I just wanted to -- to address, before you continue your questions, as to the subpoena request, I believe, 11, that called for documents related to the -- the complaint by Morgan, in the production meet this morning I believe there is -- that does include an e-mail with Attorney Simoni that has a link to documents that I believe is active and accessible, that you can open that link and see documents that were produced related to this litigation. And if there's more that -- of that kind that are responsive, we'll get them to you.

MR. RAKOWER: All right. Thanks for putting that on the record. And you

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 know, I just want to note that that
 production was made 14 minutes before
 this deposition was scheduled to
 commence. And so we are just going to
 reserve all rights in that regard and --
 and you know we can -- you know,
 we'll -- we'll make a reservation of
 rights and as I said, I'm planning to
 make a reservation of rights at the
 conclusion of the depo as well.

MS. ZERNER: Yes. And I'll add
 then since -- I mean, I did receive the
 documents late on Sunday night, when
 Monday I was in a deposition with your
 other counsel. I spent yesterday trying
 to get the documents to you and I ran
 into a technical problem, as I
 mentioned. I produced the documents I
 could yesterday and tried to get them to
 you as quickly as I could this morning.

MR. RAKOWER: Why don't we go back
 to the questions. We can discuss this
 at the conclusion of the deposition.

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 internet real quick.

Q You don't need to do that right now. We
 can --

A Okay.

Q -- do that.

But -- but you recall that the one time
 that you met Mr. Indiana in person, it was at --
 around the time when his exhibition at the Whitney
 was ongoing?

A Yes.

Q Okay. And that was the only time you
 met him in person?

A That I recall, yes.

Q Okay. And what did you discuss with
 Mr. Indiana?

A Nothing about artwork or anything like
 that.

He's very eccentric gentleman so I -- I
 didn't even spend much time talking to him. I
 think we took some pictures. We did go to lunch,
 but it wasn't a lot of discussion, so to speak.

Q Okay. And -- and so you don't recall
 any discussion with him during that -- that
 meeting in person regarding the authorizations for

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ANNETTE VESSECCHIA
 BY MR. RAKOWER:

Q So Ms. Vessecchia, we -- we -- we
 discussed, you know, a conversation that you had
 overheard between Robert Indiana and -- and
 Michael McKenzie that occurred some time in 2012;
 do you recall that?

A Yes.

Q Okay. Have you ever met Robert Indiana
 in person?

A Yes.

Q How many times?

A Once.

Q Once. And where was that?

A It was actually in the studio in
 Katonah.

Q Okay. And when was that?

A I can't tell you the day, but I can tell
 you it was during the Whitney Museum's exhibit --
 Robert Indiana exhibition where he had come to
 town for that.

Q Is that in or around 2013?

A That seems about right. Seems like it
 could have been a little later. But that -- it's
 possible. I could probably look it up on the

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ANNETTE VESSECCHIA
 his artworks?

A No, absolutely not.

Q Okay. And -- and you don't recall
 overhearing any discussion during that visit to
 which you may not have been party, but a
 discussion perhaps between him and Mr. McKenzie
 regarding his authorizations for artworks?

A Correct. I mean --

Q You -- you don't recall anything like
 that during the visit?

A No.

Q Okay. Have you ever spoken to
 Mr. Indiana by phone?

A No.

Q Have you ever e-mailed Mr. Indiana?

A No.

Q Have you ever texted him?

A No.

Q Okay. And you mentioned overhearing
 a -- a phone call between Mr. Indiana and
 Mr. McKenzie in 2012.

You mentioned that was the first time
 you had heard Mr. Indiana's voice; is that right?

A Yes. That I recall, yes.

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Q Okay. Do you recall any subsequent phone conversation between Mr. McKenzie and Mr. Indiana that you overheard?

A Yeah, there -- there could have been hundreds of conversations. I mean, that -- they were talking or, you know, he -- you know, he would call and Mike is usually on speakerphone. So, you know, there were all kinds of things discussed.

Q Approximately how many conversations do you believe that you overheard between Mr. McKenzie Mr. Indiana?

A That's hard to even put a guess on.

2012 -- six -- I mean, it could have been 50; it could have been more.

I mean, honestly, it could have been like a real quick, "Hey, just checking in," or, "Hey, Mike, you know, just" --

There were so many because Mike sits right behind me at the studio. I mean, he's 3 feet away so.

Q You mentioned the first conversation that you heard was in or around 2012?

A I -- I believe that to be true. I -- I

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conversation in 2012 where you overheard a conversation about the potential use of a machine to sign Mr. Indiana's name?

A Yes.

Q Do you recall any conversations subsequent to that regarding the use of a machine to sign Mr. Indiana's name?

A Not specifically, no.

Q Okay. Do you recall any conversations subsequent to that regarding Mr. Indiana's authorization for his name to be signed on artworks?

A If it was a conversation it was, "How's everything going? How does it look? How" -- you know, that -- that kind of thing.

But no, no -- if you are looking for, was there an actual agreement? No, I -- I didn't hear anything after that, that I recall.

Q And so you're talking about there was no actual agreement regarding the use of a Ghostwriter that you overheard; correct?

A That I -- no, not specifically the Ghostwriter, no.

Q Okay. And do you recall any

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just believe that -- I believe it to be the first time I heard Indiana's voice.

And while it could have been later after I started working, I -- you know, I just didn't hear any conversations prior to that. I just remember that one in particular because it was the first time I heard him and I just -- I was really excited at first. And then I was just thinking, "Why is he whining so much?"

But that's neither here nor there.

Q And when was the last conversation you heard between Mr. McKenzie and Mr. Indiana?

A Oh, man. I mean, it had to be pretty close -- just prior to him passing away. I -- you know, I -- I just don't recall when the last conversation was that I heard.

Q But it would be in or around 2018?

A Yes.

Q Okay. And during that approximate six-year span, did you regularly overhear conversations between Mr. McKenzie and Mr. Indiana?

A Yes.

Q Okay. And you mentioned a specific

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conversations regarding the Dylan works that you overheard between Robert Indiana and Michael McKenzie?

A I mean, sure, they talked about it. I mean, yeah, he was excited about it.

Q Do you recall any conversations between Robert Indiana and Michael McKenzie regarding Morgan Art Foundation?

A Wait. Can you repeat that again?

Q Do you recall any conversations between Michael McKenzie and Robert Indiana regarding Morgan Art Foundation?

A Yes.

Q And what do you recall?

A I recall Mr. Indiana not being very happy with them.

I couldn't -- again, there were so many conversations -- I -- I was very familiar with Morgan Art Foundation and it wasn't in a favorable way.

Q And what do you recall Mr. Indiana saying?

A He wasn't happy by the way things were being handled, he wasn't happy with some

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 individuals that were related. I mean, he seemed stressed out, very stressed out at times so, I mean -- I -- I -- is there a specific question that you're looking for or -- or anything, like, specific?

Q I'm -- I'm trying to -- I'm trying to -- to just ascertain your memory of -- of your conversations -- or the conversations that you overheard between Mr. McKenzie and -- and -- and --

A Yes. Morgan Art Foundation was a topic of conversation.

Q And you mentioned that you overheard Mr. Indiana being unhappy with individuals?

A Yes.

Q And who were those individuals?

A Simon Salama-Caro. I'm not sure I'm saying that correctly. But he was pretty upset about him and I feel like there was one conversation where maybe one member of that family came to visit and he was upset about that.

Again, I -- I can't -- you know, I don't have, like, full memory of that. I just know that it was a source -- to me, in the, you know, time

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But I think he was saying he needs -- you know, "I hear you complaining all the time, but you don't seem to be doing anything."

I kind of remember a little bit about that.

Q What did Mr. McKenzie suggest that Mr. Indiana do with regard to Morgan Art Foundation?

A That maybe he needed to get representation or request the documents that he was looking for.

I don't know exactly what he -- he was requesting. I'm not trying to be a jerk, but there was a lot of whining that was coming from Indiana. So I -- I just couldn't tell you exactly what it was, but it would definitely come up.

Q Okay. And, you know, with regard to Mr. Indiana's authorizations --

A Yes.

Q -- for artworks?

A Yes.

Q Have we discussed every conversation that you remember in which Mr. Indiana provided authorization for his name to be signed on

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that I was in the studio when I would hear the conversations, it seemed to be a source of stress and angst for Indiana.

Q All right. But you can't recall any conversation with specificity where Mr. Indiana expressed that it was a source of angst?

A He was complaining that he wanted documents produced and he wasn't getting it and Mike was trying to help him out.

It seemed to -- to happen for -- you know what, I -- whenever I heard the conversations there seemed to be subsequent conversations and then there weren't -- they -- they were fewer and far between.

But yeah, I mean, I definitely was familiar with it.

Q And you mentioned Mike was trying to help them out. You're talking about Mr. McKenzie?

A Yes. Mr. McKenzie.

Q Okay. And Mr. McKenzie was trying to help Mr. Indiana deal with Morgan Art Foundation?

A Yeah. I think he was just -- I -- I can't tell you exactly what kind of advice he was giving him.

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ANNETTE VESSECCHIA

artworks?

(Whereupon, the court reporter requests clarification.)

BY MR. RAKOWER:

Q Sure. So with regard to conversations that you overheard between Mr. Indiana and Mr. McKenzie regarding Mr. Indiana's authorizations with respect to his signature being signed on artworks, do you recall any other conversations other than the ones we've discussed?

A I mean, I do recall Indiana saying, "Why can't we just use the machine," but I -- I have no idea what the outcome of what that was.

And I couldn't tell you, like, what editions that might be. Because I guess at that point I was getting so used to the conversations that -- that I -- you know, sometimes I wasn't, like, truly listening in.

That first one was just so vivid because it was the first one. And it was just coincidental that it happened to be, you know, about that.

Q And -- and besides that first conversation, you can't recall with specificity

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any other conversation --

A Not specifically about a particular edition, no.

Q Okay. And not specifically -- and -- and besides that first conversation, you can't recall any other conversation that you overheard where Mr. Indiana provided any authorization for his name to be signed on artworks?

A Not that he was providing authorization but he was asking if they could -- if he could use the machine or why didn't they just use the machine or, you know, some -- something like that.

Q And those questions were asked on that first conversation that you overheard; is that right?

A Yes, of that. But they were asked on subsequent conversations.

I mean, once we had the machine, I think Indiana was like, "Why can't we just use it all the time?"

And I just got the feeling that Mike didn't want to use it all the time so --

Q What gave you that feeling?

A Because he would -- that -- at least in

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Four Seasons of Hope?

A Yes.

Q But you never heard him say that; right?

A I guess no. Not -- not directly.

Q Who told you that -- that Mr. Indiana had authorized his name to be signed on the Four Seasons of Hope?

A I -- I -- I think it was just -- I assumed that they had made a deal if they were using the machine. I never questioned whether Mike would -- I mean, it wouldn't even cross my mind that he would use it for anything other than what Indiana would want it -- you know, when Indiana would want it to be used.

Q So you -- you assumed that Mr. Indiana had provided his authorization when the Ghostwriter was used to sign Four -- Four Seasons --

A Yes.

Q But nobody ever told you --

MS. ZERNER: Objection.

BY MR. RAKOWER:

Q -- that he had provided the authorization?

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what I heard of the conversation, it was never a, "Yeah, okay," you know. Or anything like that.

It was, you know, "We can talk about it later," or, "I guess that's something we could discuss," or, you know, that that sort of thing.

Q So there was definitely --

A So I never knew, like, you know, what -- if there were subsequent editions that he gave permission for, I don't know of that.

Q So besides Mr. Indiana asking why the machine couldn't be used, you don't recall Mr. Indiana providing any authorization for the machine to be used on a particular artwork; is that correct?

A Not in the conversations that I overheard, no.

Q Okay. And the -- you testified earlier the only artwork that -- that you understand -- understood the machine was being used on was the Four Seasons of Hope?

A Correct.

Q Is that right?

Did you understand that Mr. Indiana had -- had authorized his name to be signed on the

ANNETTE VESSECCHIA

MS. ZERNER: Go ahead.

A Repeat that again?

BY MR. RAKOWER:

Q Sure. You assumed that Mr. Indiana had provided authorization to sign his name on the Four Seasons of Hope, but nobody ever told you that he had provided that authorization; is that correct?

MS. ZERNER: Objection.

Go ahead.

A I mean, I -- I just don't recall if they said, you know -- it's not like I got authorization for every single thing.

If Mike said, you know, this is what's going on today -- and remember, I'm part-time, very part-time -- but this is what's going on today, then -- then it must have been something that he dealt with.

I mean, we have pictures of Indiana with the Four Seasons of Hope. I'm sure those have been turned in. So I mean, why would I think anything differently?

BY MR. RAKOWER:

Q I just -- thank you for that. I -- I'm

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1 ANNETTE VESSECCHIA
2 just going to ask the question one more time.
3 I'll try to ask it a little clearer just because
4 I -- I need an answer to this specific question.
5 A Okay.
6 Q Did anybody ever tell you that
7 Mr. Indiana had authorized for his name to be
8 signed on the Four Seasons of Hope?
9 A I guess no, it was not said -- stated
10 exactly as you just stated.
11 Q Did anybody state it in a different way?
12 A We're using the machine to sign the Four
13 Seasons of Hope.
14 Q And who said that to you?
15 A Mike.
16 Q Okay.
17 MR. RAKOWER: Can we pull up Tab 16
18 from my set, Bernadette?
19 COURT REPORTER: And just try and
20 remember one at a time, please, folks.
21 Thanks a lot.
22 TECHNICIAN: You said 16?
23 MR. RAKOWER: Yeah. It should be a
24 video. Don't press play just yet, but
25 show -- show the video on the screen.

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1 ANNETTE VESSECCHIA
2 now. Yes, that's -- that's the machine.
3 Q Okay. This is the Ghostwriter that
4 you've seen in -- in Mr. McKenzie's studio?
5 A Yes.
6 Q And you've used this machine?
7 A Yes.
8 Q Okay. And this is the same artwork that
9 we were looking at before; is that right?
10 A Of the clip that you showed, yeah, I
11 mean, it looks like it.
12 Q Yeah. This is not the Four Seasons of
13 Hope?
14 A I -- no. I mean, I -- not from what I
15 can tell.
16 Q All right. Why don't we --
17 MR. RAKOWER: Can you press play on
18 the video?
19 (whereupon video is played without
20 audio.)
21 BY MR. RAKOWER:
22 Q Okay. You just watched the video?
23 A Yes.
24 Q Okay. Do you recognize the artwork now?
25 A I do recognize the artwork, yes.

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1 ANNETTE VESSECCHIA
2 BY MR. RAKOWER:
3 Q All right. Ms. Vessecchia, do you see
4 an image on your screen?
5 A Yes.
6 Q Okay. Do you see that the image is
7 taken from Instagram?
8 A Oh, yeah, this looks like -- yeah, the
9 rest of the photo that you had from before.
10 Q Okay. And that's the photo in Morgan
11 Art Foundation's complaint that we discussed
12 earlier?
13 A Okay.
14 Q Is that -- is that the same -- is that
15 the same photo you're talking about?
16 A I mean, it's the one that you showed.
17 I mean, I -- I've heard of this -- I
18 heard about -- I heard about it, I guess, when
19 Morgan first, you know, made their complaint. I
20 actually didn't have Instagram at the time so --
21 but yes, I -- I'm familiar with this.
22 Q Okay. And you were mentioning in the --
23 in the image we were looking at before that you
24 couldn't see the full machine; do you recall that?
25 A Right. I -- I can see the full machine

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1 ANNETTE VESSECCHIA
2 Q And what artwork is that?
3 A It looks like The Alphabet.
4 Q Okay. And it's being signed by the
5 Ghostwriter machine that's in Mr. McKenzie's
6 studio?
7 A That's the way it looks.
8 Q Okay. And it's being signed with Robert
9 Indiana's signature?
10 A Yes.
11 Q Okay. Do you know who the person with
12 the Instagram handle "tincanphone" is?
13 A Yes.
14 Q Who's that?
15 A That's Kate Casey.
16 Q Okay. And you used to work with Kate
17 Casey?
18 A I did.
19 Q Okay. And she worked at McKenzie's
20 studio?
21 A Yes.
22 Q Okay. And do you see it says in the
23 caption, "hashtag ghost writer, hashtag signature
24 machine. My boss said I would be fired if I don't
25 do this."

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1 ANNETTE VESSECCHIA
2 Do you see that?
3 A Yes.
4 Q Okay. Do you know who her boss that
5 she's referring to is?
6 A I'm assuming it's Michael McKenzie.
7 Q Okay. Is that a threat that
8 Mr. McKenzie has made in the past that you've
9 seen?
10 A I have never heard him say he would fire
11 anybody. So no.
12 Q Next line is, "So because Indiana is too
13 old to sign his prints, part of my job is to
14 commit forgery."
15 Do you see that?
16 A Yes.
17 Q Okay. Was it your understanding that
18 Mr. Indiana was too old to sign his prints?
19 A I -- that was my assumption. I mean, he
20 said it himself, that he couldn't sign his -- you
21 know, he didn't want to stand up and sign.
22 Again, this is the first time I've
23 noticed what this piece of artwork is.
24 Q Okay. And then the caption goes on to
25 say, "If the cops ever come, I'm singing like a

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1 ANNETTE VESSECCHIA
2 identification.)
3 MR. RAKOWER: If we go to Tab 18.
4 You can put that up on the screen.
5 TECHNICIAN: So the video was
6 marked as Number 3; right?
7 MR. RAKOWER: Yes. Thank you.
8 BY MR. RAKOWER:
9 Q All right. Ms. Vessecchia, do you see
10 the document that's on your screen?
11 A Yes, I do.
12 Q Okay. I'll represent to you that this
13 was taken from the production of documents you
14 made last night.
15 Do you recognize this document?
16 A Yeah. It's one that I found in the
17 computer.
18 Q Okay. Whose computer?
19 A The studio laptop.
20 Q And in connection with the -- with the
21 subpoena that -- that we served on you, one of the
22 places that you looked for documents was in the
23 studio laptop?
24 A Yes.
25 Q Okay. And is that laptop accessible by

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1 ANNETTE VESSECCHIA
2 bird."
3 A I see -- yes, I see that.
4 Q Why -- why would this be of interest to
5 the police?
6 A Well, first of all --
7 MS. ZERNER: I'm sorry, I just
8 didn't hear the question.
9 What did you say, Ryan? Why would
10 this be of interest to what?
11 MR. RAKOWER: To the police.
12 MS. ZERNER: Objection.
13 Go ahead.
14 A Honestly, I -- I don't know why she
15 wrote this. I mean, it's kind of her personality
16 coming out. She didn't particularly care for
17 Mike.
18 I -- it was a joke. To me, it's a joke
19 because the cops would never come. I mean, there
20 would be no reason for it.
21 MR. RAKOWER: All right. I'd like
22 to mark this as the next exhibit. I
23 think it's Exhibit 3.
24 (Whereupon, Plaintiff's Exhibit
25 No. 3, Video, was marked for

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1 ANNETTE VESSECCHIA
2 Mr. McKenzie as well?
3 A Yeah, sure. I -- I doubt he'd know how
4 to get on it, but yes, it's accessible to him. Of
5 course.
6 Q Okay. Is there anybody else to whom
7 that laptop is accessible?
8 A It's just -- it's the computer that's
9 been in the studio. So, you know, anybody that
10 would have worked there could have used it.
11 Q Okay. And where was this document
12 located on the computer?
13 A This was actually in a group of
14 documents that has been submitted multiple times
15 to multiple attorneys at -- at requests.
16 Q Okay. And do you see the document is
17 dated August 17th, 2012?
18 A It looks like it's dated September 7th,
19 2012 -- oh, I see what you're -- okay. Yes, at
20 the top. I see that, yes.
21 Q But the signature on the bottom is -- is
22 dated September 7th --
23 A Right.
24 Q 2012; right?
25 A Right.

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1 ANNETTE VESSECCHIA
 2 Q Whose signature is that?
 3 A That's Mike. Michael McKenzie.
 4 Q Okay. And is this document a receipt
 5 for purchase?
 6 A It's what it looks like to me.
 7 Q And there's a line item for Ghostwriter
 8 T200; do you see that?
 9 A Yes.
 10 Q Okay. Is this document memorializing
 11 Mr. McKenzie's purchase of the Ghostwriter machine
 12 that we just looked at?
 13 A Yes.
 14 Q Okay. And so he purchased that machine
 15 on or around September 7th, 2012?
 16 A Yes. Again, that's -- that's what the
 17 document says.
 18 Q Okay. And there's a line item for
 19 installation and training; do you know what that
 20 is?
 21 A I actually don't know what that is.
 22 That's not something that I was a part of. But
 23 maybe they came to the studio -- or maybe they
 24 came and showed you how to use it.
 25 Q Okay.

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1 ANNETTE VESSECCHIA
 2 was marked for identification.)
 3 MR. RAKOWER: And let's pull up
 4 Tab 19.
 5 BY MR. RAKOWER:
 6 Q Ms. Vessecchia, do you see the document
 7 on your screen?
 8 A Yes.
 9 Q Okay. I'll also represent this was from
 10 the document production you made last night.
 11 A Yes.
 12 Q Do you recognize this document?
 13 A Only from looking at it, I mean, because
 14 I found it in the computer.
 15 Q And you found this on the same studio
 16 laptop that we --
 17 A Yes.
 18 Q -- looked at --
 19 (Whereupon, the court reporter
 20 requests clarification.)
 21 MR. RAKOWER: Sorry.
 22 BY MR. RAKOWER:
 23 Q I asked, And you found this on the same
 24 studio laptop that we looked at -- that we
 25 discussed for the last document?

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1 ANNETTE VESSECCHIA
 2 A I mean --
 3 Q There's a line item for signature card;
 4 do you know what that refers to?
 5 A Yeah. That's the card that has
 6 Indiana's signature information, if you will, in
 7 it.
 8 Q Okay. Is the first time you saw the
 9 Ghostwriter in use in 2012?
 10 A Yes, I believe so.
 11 Q And how long did you see it in use for?
 12 A I mean, I only remember, like, using it
 13 on a couple of days, but it seems to have all been
 14 in the same week. It -- it was really close
 15 together because they were trying to finish the --
 16 that Four Seasons edition.
 17 Q So you only observed it being used in
 18 2012?
 19 A That I can recall, yes.
 20 Q Okay. Let's pull up -- so let's mark
 21 this as Exhibit 4.
 22 (Whereupon, Plaintiff's Exhibit
 23 No. 4, Invoice from Automated
 24 Signature Technology to Michael
 25 McKenzie, Dated August 17, 2012,

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1 ANNETTE VESSECCHIA
 2 A Oh, am I supposed to answer again?
 3 Yes.
 4 Q Do you see that there's a -- a faint
 5 signature on the screen?
 6 A Yes.
 7 Q Okay. Do you recognize the signature?
 8 A Yes.
 9 Q Whose signature is it?
 10 A It looks to be Robert Indiana's
 11 signature.
 12 Q Okay. And it says on the top left
 13 corner, "Ghostwriter."
 14 Do you see that?
 15 A Yes.
 16 Q Okay. Was this signature made with the
 17 Ghostwriter machine?
 18 A I -- I -- I can't say. I -- I -- I have
 19 no idea.
 20 Q Okay. And do you see it says, "Indiana
 21 80%," at the bottom?
 22 Do you see that?
 23 A Yes.
 24 Q What does that refer to?
 25 A I -- my -- I'm assuming it -- it's

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probably at 80 percent pressure.

But this looks to be a sample that probably came from the company before it was ever purchased. I think there's multiple companies that make these machines.

Q Okay.

A Actually, I should say that's what I thought this was.

Q Okay. What do you mean by "80 percent pressure"?

A So the machine uses -- it's got the pencil at the end of it, and you can adjust the pressure so that the pencil mark is darker or lighter.

This is a terrible -- first of all, this is a terrible scan. So I -- I seriously doubt the original document is that light, but, you know, I don't know what kind of scanner they were using. And pencil is always -- it -- it's -- it can be tricky when you're -- when you're signing -- I mean -- excuse me -- when you're scanning it.

MR. RAKOWER: Why don't we go to -- so we'll mark this as the next exhibit. I think this is Exhibit 5.

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notes at the top?

A Yes.

Q Do you know whose notes those are?

A I have no idea whose notes those are. I don't recognize that handwriting at all.

Q Okay. And it says, "There -- there appears to be 'dots' that occur intermittently, either it is start and stop? Or going over?"

Do you see that?

A Yes. "There appears to be 'dots' that occur...either it is start and stop --"

I don't know what that means.

Q Okay. Why don't we put this document to the side?

MR. RAKOWER: Oh, why don't we mark it as the next exhibit, Exhibit 6? And then we'll put it to the side.

(Whereupon, Plaintiff's Exhibit No. 6, Pencil Signature with Notes and Arrows, was marked for identification.)

BY MR. RAKOWER:

Q I want to talk a little generally about your relationship with Mr. McKenzie.

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ANNETTE VESSECCHIA

(Whereupon, Plaintiff's Exhibit No. 5, Signature with Marking, "Indiana - 80%," was marked for identification.)

MR. RAKOWER: And let's go to Tab 20.

BY MR. RAKOWER:

Q Ms. Vessecchia, do you see the document on your screen?

A Yes.

Q Okay. I'll represent to you, again, that -- that I pulled this document from -- from the production of documents you made last night; okay?

A Correct.

Q Do you recognize this document?

A Only because it's one that I pulled off the computer. I've never seen the original.

Q Okay. Do you see that it shows two signatures on the document?

A Yes.

Q Are those Mr. Indiana's signature?

A Yes.

Q Okay. Do you see there are handwritten

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When did you first meet him?

A Whenever I interviewed. I had a job interview with him before I started, but I couldn't tell you what date that was.

Q Okay. But that was a job interview to be his graphic designer?

A Actually, it was a job to be a -- a studio -- a -- I don't know if it said studio assistant or silkscreen studio assistant, which I studied in school, and I was actually -- I mean, it seemed interesting. So I contacted him and came in for an interview.

Q And this was sometime in 2012?

A I believe so.

Q And how is it decided that instead of being a studio assistant or a silkscreen assistant, you would be his graphic designer?

A Because they figured out pretty quick that I was much faster on the computer than Kate, and that I would just be better served, you know, doing the computer graphics instead of, you know, helping be a printing assistant.

I was kind of disappointed, actually, 'cause I wanted to do -- do something different,

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but --

Q And do you understand that Mr. McKenzie runs a business?

A Yes.

Q Okay. What is your understanding of what that business is?

A I believe him to collaborate with other artists to create silkscreens, editions of artwork that they've, you know, agreed on.

Q And one of those artists is Robert Indiana?

A Yes.

Q And he continues to -- to create silkscreens and editions of Robert Indiana's work since Mr. Indiana died; right?

A I'm -- it was my understanding that he was allowed to do that. I mean, I don't -- I don't print, but I'm thinking more of, like -- yeah. I mean, yes.

Q And he continues to do that to this day?

A I don't do the printing. So -- and I haven't been in the studio for -- only, like, once in the last two weeks. So I couldn't say to this day. Actually, the last three weeks maybe.

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signing Indiana's name.

But with the stencil, yes. I mean, the seal, yes.

Q You've operated --

A Stencil.

Q You've operated the Ghostwriter to sign Mr. Indiana's name; is that right?

A Yes. I've been there during the operation. I've never operated it by myself, but, yes, I've been there during the operation of it.

Q And the operation of it has always been at Mr. McKenzie's direction?

A Yes.

Q Okay. And how about the use of the stencil, is that always at Mr. McKenzie's direction?

A Yes.

Q Okay. And on which artworks do you use the stencil?

A Only on the canvases that I know of.

Q And which artworks are on those canvases?

A I mean, there's -- there's multiple. I mean, there's been probably -- I mean, could be on

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Q When was the last time you were in the studio?

A I think I was there last Friday, maybe, for, like, an hour or so. I was barely in last week, and I wasn't in very much the prior week because I was at the storage unit in Middletown.

Q And what were you doing in the studio last Friday?

A Hold on. I got to think about that for a second.

I think I worked a little bit on the book. We're doing a Andy Warhol book that I've been working on.

Q Okay. And when you were there last Friday, were there Robert Indiana artworks being created?

A I don't think so. I think I was the only one in the studio.

Q Okay. And one of the ways that you assist Mr. McKenzie is -- is signing Mr. Indiana's name or stamping -- or stenciling a -- a signature --

A Only the stenciling, not signing of the name. I don't -- I don't know anything about him

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the -- I mean, anything that we've done -- any -- any canvas that we've printed a stencil or the stamp would likely have been used.

And this is only something that I have done lately. That is something that the printer does or the printer's assistant. Lately, I mean in the last, like, few years.

Q Okay. And I'm just going to go through a list of -- of images.

A Sure.

Q Just let me know whether those images have appeared on -- on -- on canvases that -- that either you have stenciled or you've seen somebody else stencil.

A Okay.

Q Okay. So HOPE?

A Yes.

Q The -- the Dylan artworks?

A I -- I'm sure -- I mean, I -- I haven't seen those -- I mean, I haven't seen the backs of those canvases lately. So I don't -- but, yeah, I'm sure.

Q Okay. The EAT image, E-A-T?

A Probably.

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Q Okay.

A Again, the only way that I'm going to know if this was done is if I've seen the back of it or photographed or seen a photograph of the back of it.

Q The ART image, A-R-T?

A Yes.

Q You've seen that stenciled?

A I -- no. The only thing that I've actively -- whenever something's -- whenever something -- I just want to be clear.

Whenever something is getting stenciled or stamped, I may not always know what that piece of artwork is, and I'm also not standing there with them while they're working on it. But I may have seen an image of the back of it.

It's just my understanding that the stencil was used on canvas.

Q Okay. How about the -- the TIKVA image?

A The TIKVA, I don't know. That was before -- that's before my time.

Q Okay. AHAVA?

A I don't -- I'm not everyone sure what that is.

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A Yes.

Q -- that?

Okay. I want to go back in time earlier. I mean, because -- do you understand that this lawsuit was filed back in 2018?

A Yes.

Q Okay. And so before you received this subpoena in 2021, had you previously undertaken efforts to collect documents to produce in this lawsuit?

A Yes.

Q Okay. And what -- what did you do?

A I pulled hundreds, upon hundreds, upon hundreds. Upon hundreds of images and things that were found.

I've also -- yeah, I mean, I've -- I've been there, you know, when other people have been pulling documents. I mean, it's -- I have no idea how many times I've done this.

Q Okay. When you mentioned you pulled images, is that from your e-mails?

A It could have been from e-mails or it could have been from just general e-mails. It could have been from our -- the backs of -- the

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Q Okay. The Alphabet series?

A Probably.

Q Okay. And LOVE?

A I've not seen -- that would have been prior to me. I've not seen a LOVE canvas.

Q Okay. So I want to turn to the -- so we discussed your collection of documents of the -- with regard to this subpoena --

A Uh-huh.

Q -- a collection of documents that we discussed --

(Whereupon, the court reporter requests clarification.)

A Yeah. I didn't hear it either.

MR. RAKOWER: Sure.

(Whereupon, the court reporter requests clarification.)

MR. RAKOWER: Sure.

BY MR. RAKOWER:

Q So we discussed earlier the efforts that you undertook to collect documents in response to this subpoena that was served on you, I believe in September.

Do you recall --

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fronts and backs of the artwork is photographed, along with anything else, like, maybe, you know, Indiana signing or, you know, standing there with Mike or whatever it might be.

I mean, I have -- you know, we have a -- like, albums I -- you know, if you will, of photographs.

Q Okay. So you have hard copy documents, including albums of photographs, that you helped collect and produce; is that right?

A I don't know that I've ever produced any of -- any hard copies. It was just looking for stuff on the computer.

Q Okay.

A I mean, it's possible that Mike may have handed me, like, a pile of stuff and said, Go through this.

But what I remember the most is, you know, like, filtering through all the stuff on the laptop.

Q And that --

A The studio laptop.

Q Okay. The studio laptop.

You accessed the studio laptop in search

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for responsive documents?

A Yes.

Q Did you turn over the studio laptop to your attorneys?

A Yes. I mean -- yes. One -- one group, yes.

Q You physically gave the laptop to them?

A I -- I sat there while they looked through it. And then it was my understanding -- you know what?

Actually, I'm not 100 percent sure if they took my -- if they took the studio laptop, but they were definitely in the studio looking at all the files, or maybe they copied all the files. I don't -- I don't know exactly.

Q And you were directing them where to look in the studio?

A I mean, if they asked, then I would, but, you know, it's -- it's a studio laptop. It's not like there's anything -- it's not -- you know, it's not personal use. So, I mean, I guess if they wanted, they could have pulled everything off of it.

But, yes, if they asked -- like, I

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Q Let's start when -- let's start when the attorneys were there.

How long were the attorneys there for?

A I think they were in and out for a couple of weeks.

Q And were they just on the studio or did they go to other parts of the property?

A I mean, I'm sure -- probably not. I mean, it would have just been in the studio, maybe walking around upstairs, maybe. I don't -- I -- I can't say if they walked around the rest of the property. I don't know.

Q Okay. And putting aside when the -- the attorneys were there, how much time did you spend individually looking for responsive documents?

A Oh, I -- I don't even know. Hours. I mean, honestly, I -- I -- I can't tell -- I don't know. It -- I mean, if I work 12 hours a week, I mean, 25, 30. I don't know.

'Cause I -- I also looked for stuff separately, like, at the request if they were looking for something, like, much more specific, you know, that maybe they didn't have or just couldn't find.

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remember them asking, Do you have pictures of Indiana signing things?

Well, yeah, we have a whole folder of just him signing things. So I'm sure I pointed them in that direction. That would be an example, yes.

Q Okay. And when was this search done?

A I don't know -- you know, I don't know exactly, but it would have been shortly after the lawsuit was filed. So maybe, like -- I -- you know what? I'm just not -- I'm not exactly sure.

I guess if I had to go back and try to figure that out, I probably could, but it was not long after the lawsuit had been filed and Mike had -- had retained an attorney.

Q Okay. And do you know whether other staff participated in the collection of documents?

A I don't.

Q And how long did you spend looking for documents?

A Just the time that -- that they were there or me, like, period, like, separately?

Because I -- I also looked, like, separately, you know.

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Q Did you speak to Mr. McKenzie about collecting documents for this lawsuit?

A Yeah. In what -- what do you mean? In what regard? Like, if it was okay or did he have any?

I mean, what is -- what specifically do you mean?

Q I just asked whether you spoke to him about --

A Yeah. Yes. Yes.

Q And what did instruct you?

(Whereupon, the court reporter requests clarification.)

BY MR. RAKOWER:

Q I was -- I was just saying I just asked if you had that discussion.

And now I'm asking what, if anything, did he instruct you?

A He said to give them whatever they were looking for.

Q Okay. Did he give you any other instructions?

A No.

Q Okay. Did you speak with any lawyers

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 2 for Mr. McKenzie about document collection?
 3 A Yes.
 4 Q Which ones?
 5 A Whoever the people were from Dunnington,
 6 Simoni, Markham, Bridget. I mean --
 7 Q And what instructions, if any, did they
 8 give you?
 9 MS. ZERNER: Objection.
 10 You -- you can answer.
 11 A I mean, that's pretty broad. I mean,
 12 it -- it was -- it was different --
 13 MS. ZERNER: Yeah. It's also
 14 compound. Do you want to break it down
 15 for each attorney set?
 16 THE WITNESS: Right.
 17 MR. RAKOWER: Sure.
 18 BY MR. RAKOWER:
 19 Q Did the attorneys at Dunnington give you
 20 instructions with regard to document collection?
 21 A They were -- because the people were
 22 actually there, you know, they probably just said
 23 is, you know, I -- anything you have regarding
 24 Robert Indiana specifically, photographs, signing,
 25 contracts, stuff like that.

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 2 like, sent over to them. I just -- I just
 3 don't -- I don't know how all of this works.
 4 Anything that they asked for, I -- if I could find
 5 it, I found it and collected it and sent it.
 6 Q And let's go back to -- to 2018 when the
 7 Dunnington lawyers came to the property.
 8 A Uh-huh.
 9 Q Did you observe Mr. McKenzie collecting
 10 documents himself?
 11 A I mean, no, I wasn't standing behind his
 12 back. But, yeah, he was -- I mean, he was
 13 definitely giving documents or they were on his
 14 computer.
 15 MR. RAKOWER: Maybe now would be a
 16 good time to take a break. I saw that
 17 the exhibit tech dropped off the Zoom.
 18 I don't know if you want to take the
 19 lunch break now or -- or whether you'd
 20 prefer this to be a short break,
 21 Bridget, or -- or Ms. Vessecchia.
 22 MS. ZERNER: I'll -- I'll go with
 23 the majority. I can do lunch now or do
 24 it later. Up to you guys.
 25 THE WITNESS: Yeah. I -- whatever

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 2 But they kind of pulled, like, all their
 3 own stuff. That was -- it was a little more -- it
 4 was a little more broad with them.
 5 Q So they didn't give you specific
 6 instructions with regard to document collection?
 7 A I think it was just, you know, anything
 8 that has to do, you know, with Robert Indiana or
 9 the artwork, you know, gather it all up and, you
 10 know, put it in a folder.
 11 So that's what I did.
 12 Q And did Mr. Simoni or any attorney at
 13 his firm give you instructions with regard to
 14 document collection?
 15 A Yeah. It seemed to be a little more --
 16 I can't tell -- I can't tell you exactly what it
 17 was, but it seemed to be a little more specific.
 18 Like, We're looking for any addendums to the HOPE
 19 contract or we're looking for pictures of him
 20 signing, you know, certain artworks, or we're
 21 looking for any communication that you may have
 22 had with Indiana or Jamie Thomas or --
 23 You know, stuff like that.
 24 But that was -- basically covered the
 25 same thing that Dunnington probably had already,

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 2 is going to make this go faster. I
 3 won't take a break at all. I mean, you
 4 just tell me what you want to do.
 5 MR. RAKOWER: Why don't we do -- if
 6 it works for everybody, can we do a -- a
 7 30-minute lunch and come back at 1:05?
 8 THE WITNESS: Sure.
 9 MS. ZERNER: Sure.
 10 MR. RAKOWER: Great. And we should
 11 follow up with the -- with the exhibit
 12 tech to make sure that they're --
 13 they're back online for the 1:05 -- 1:05
 14 start.
 15 MS. ZERNER: Annette --
 16 THE WITNESS: Yes.
 17 MS. ZERNER: -- please mute -- hit
 18 "mute" on your screen --
 19 THE WITNESS: Oh, okay.
 20 MS. ZERNER: -- while you're gone.
 21 And you can turn the video off as well,
 22 and then when you come back, turn it all
 23 on.
 24 THE WITNESS: How do you --
 25 COURT REPORTER: Do you want to go

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off the record right now?

MS. ZERNER: Yes.

THE WITNESS: So I just -- I just click mute and then stop video? I'm sorry. I'm not good with --

COURT REPORTER: Just one moment, please. Hold on one second. Let the videographer take us off. Thank you.

THE VIDEOGRAPHER: Off the record at 12:37 p.m.

(Whereupon, there was a recess taken from 12:37 p.m. to 1:09 p.m.)

THE VIDEOGRAPHER: On the record at 1:09 p.m.

BY MR. RAKOWER:

Q Ms. Vessecchia, do you understand that counsel for Morgan Art Foundation has visited Mr. McKenzie's property twice this year?

A I know -- I thought it was just once, but I know that they were there for the first visit, but I don't -- I -- I guess I wasn't sure that they were there for the second. So -- okay.

Q Okay. So do you recall that there was a first visit, like you -- like you said, on or

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Q And so the first time frame that I'm going to ask about is, is at the time of the May 31st visit; okay?

A Okay. Sure.

Q Okay. So you mentioned that you were present at the May 31st visit?

A Yes.

Q Okay. At the time of that visit -- okay -- where were Robert Indiana artworks held on Mr. McKenzie's property?

A At the studio and in the basement of -- I mean, I guess it is his residence, but I just think of it as being, like, storage, but it's in the basement area.

Q And whose residence is that?

A Mr. McKenzie.

Q Okay. So you recall, as of May 31st, there were artworks in the art studio?

A Yes.

Q And artworks in the basement of Mr. McKenzie's residence?

A Yes.

Q Okay. So do you have that -- do you have that map?

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around May 31st of this year?

A Yes.

Q Okay. And do you recall that my colleague, Luke Nikas, attended that visit?

A Yeah. I mean, I recall meeting him briefly.

Q Okay. And do you recall that there was a second visit this year?

A Yes.

Q Okay. And do you recall that that was on or around August 5th of this year?

A Yes.

Q Okay. And my colleague, Luke Nikas, likewise attended that visit.

Do you recall that?

A I -- I honestly I don't remember him, but it's hard to keep track of, you know, who was actually there. But, yes.

Q Were you present for both visits?

A Yes.

Q Okay. So, you know, for this line of questioning, I just -- I do want to be very clear about the time frames that I'm asking about.

A Uh-huh.

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A Yes.

Q If you could put an "X" where you recall artworks being held as the time of the May 31st visit and just put a little "5/31" next to the "X"?

MS. ZERNER: Just for the record, I believe the visit was on May 25th.

MR. RAKOWER: Oh, thank you. I did say on -- I did say on or around May 31st so --

THE WITNESS: Do I leave it May 31st or --

BY MR. RAKOWER:

Q Maybe make it -- maybe -- if -- if you can fudge it and make it May 25th, that would be great.

A I can but it's going to be very blatant that I fudged it.

Q That's okay. This is on the record, so they'll know.

MR. RAKOWER: Thank you, Bridget, for that.

BY MR. RAKOWER:

Q So I'm going to call this now the

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1 ANNETTE VESSECCHIA
 2 May 25th visit.
 3 A I didn't catch it either, so --
 4 BY MR. RAKOWER:
 5 Q Great.
 6 A Can -- can you see it?
 7 Q Yes. Yes, I can see that. Thank you so
 8 much.
 9 So at the time of this May 25th visit,
 10 right, there was artwork in the studio.
 11 Does the studio have multiple floors?
 12 A Yes.
 13 Q Okay. How many floors are in the
 14 studio?
 15 A Two.
 16 Q Okay. Is there a basement in the
 17 studio?
 18 A No.
 19 Q Okay. Was there artwork on the first
 20 floor of the studio?
 21 A Yes.
 22 Q Was there artwork on the second floor of
 23 the studio?
 24 A Yes.
 25 Q Okay. And you mentioned that there was

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1 ANNETTE VESSECCHIA
 2 MR. RAKOWER: Bernadette, can we
 3 pull up Tab six?
 4 BY MR. RAKOWER:
 5 Q Ms. Vessecchia, do you see an image on
 6 your screen?
 7 A I do.
 8 Q Okay. This -- this image is a document
 9 that was produced in this litigation. It's with
 10 the Bates stamp MAF 0060230.
 11 A Yup.
 12 Q Okay.
 13 MR. RAKOWER: And I'm going to mark
 14 this with the next exhibit.
 15 Is -- Exhibit 7 is the next one?
 16 TECHNICIAN: Yes, sir, it is.
 17 MR. RAKOWER: Great. So I'll mark
 18 this as Exhibit 7.
 19 (Whereupon, Plaintiff's Exhibit
 20 No. 7, Image, was marked for
 21 identification.)
 22 BY MR. RAKOWER:
 23 Q Do you recognize this location?
 24 A Yes.
 25 Q Where is that?

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1 ANNETTE VESSECCHIA
 2 art -- artwork located at McKenzie's --
 3 Mr. McKenzie's residence; is that right?
 4 A In the basement, yes.
 5 Q Okay.
 6 A The storage area, yes.
 7 Q Was there artwork located anywhere else
 8 in Mr. McKenzie's residence at the time of the --
 9 A That, I couldn't tell you about, like,
 10 where he lives, but -- because the basement is
 11 completely separate. You can't even access it,
 12 like, from the living area. Like, I think of it
 13 as being completely separate.
 14 Q Okay. But to your knowledge, you
 15 don't -- you're -- you're not aware of any artwork
 16 that was located elsewhere in Mr. McKenzie's
 17 residence?
 18 A Right.
 19 Q Okay. But you did mention that there
 20 were artworks located in the basement of
 21 Mr. McKenzie's residence, which you said can be
 22 accessed through a separate entrance?
 23 A Right. Only through an outside
 24 entrance, yes.
 25 Q Okay.

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 2 A In the basement of my -- of the -- I'm
 3 sorry, it's Mike's residence, but I call it the
 4 big red barn. In the basement, yes.
 5 Q Great.
 6 MR. RAKOWER: We can take that
 7 image down and instead put up Tab nine.
 8 Okay.
 9 BY MR. RAKOWER:
 10 Q Do you see an image on your screen,
 11 Ms. Vessecchia?
 12 A I do.
 13 Q Okay. This -- this was an exhibit that
 14 was introduced during Mr. McKenzie's deposition.
 15 It was marked Exhibit 19.
 16 MR. RAKOWER: For this deposition,
 17 let's mark it with the next exhibit
 18 number, which I believe is Exhibit 8.
 19 (Whereupon, Plaintiff's Exhibit
 20 No. 8, Image, was marked for
 21 identification.)
 22 BY MR. RAKOWER:
 23 Q Do you recognize the location of this
 24 picture?
 25 A Yes.

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1 ANNETTE VESSECCHIA
 2 Q And where is this?
 3 A That's in the studio.
 4 Q So --
 5 A Downstairs in the studio.
 6 Q So this is on the first floor of the
 7 studio?
 8 A Correct.
 9 Q Okay. Great.
 10 MR. RAKOWER: We can put this -- we
 11 can put this to the side.
 12 BY MR. RAKOWER:
 13 Q So at the time of the -- the May 25th
 14 visit, you mentioned there were artworks in the
 15 studio on the first and second floors and then in
 16 the basement of Mr. McKenzie's residence.
 17 Were there artworks located at any other
 18 residence on the property?
 19 A Not that I -- not that I know of, no.
 20 Q Okay. To your knowledge, were there any
 21 artworks Mr. Gonzalez's residence?
 22 A Not that I know of. But the residence
 23 was partially furnished, so I -- I -- I don't know
 24 what was in there. But not to my knowledge, no.
 25 Q Okay.

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1 ANNETTE VESSECCHIA
 2 somebody who's -- who's in your contact
 3 information as "O.G. Cool"; is that right?
 4 A Correct.
 5 Q Okay. Is that Oz Gonzalez?
 6 A Yes, it is.
 7 MR. RAKOWER: Okay. If we can go
 8 to the -- if we can go to page four?
 9 First of all, I'd like to mark
 10 this, actually, as Exhibit 9.
 11 (Whereupon, Plaintiff's Exhibit
 12 No. 9, Text Messages from Annette
 13 Vessecchia's Phone to Osvaldo
 14 Gonzalez, was marked for
 15 identification.)
 16 MR. RAKOWER: And let's go to --
 17 let's go to page four of the document.
 18 BY MR. RAKOWER:
 19 Q Okay. At the very bottom of the screen,
 20 do you see that Mr. Gonzalez is texting you a
 21 picture?
 22 A Yes.
 23 Q Do you see that?
 24 A Yes.
 25 Q Okay. And what's in that picture?

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1 ANNETTE VESSECCHIA
 2 MR. RAKOWER: If we could pull up
 3 Tab 17.
 4 TECHNICIAN: I'm sorry, I didn't
 5 hear what you said.
 6 MR. RAKOWER: Sorry. Would you
 7 mind pulling up Tab 17?
 8 BY MR. RAKOWER:
 9 Q Ms. Vessecchia, do you see an image on
 10 your screen?
 11 A I do.
 12 Q Okay. I'm going to represent to you
 13 that I pulled this -- pulled this document from
 14 your production of documents that you made last
 15 night.
 16 A Uh-huh.
 17 Q And these are messages taken from your
 18 phone; is that correct?
 19 A Yes. They're taken from my -- yeah, my
 20 new phone, yes.
 21 Q Okay. And do you see at the top of the
 22 screen, the messages are from around -- in or
 23 around August of 2021?
 24 A Yes.
 25 Q Okay. And the messages are with

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1 ANNETTE VESSECCHIA
 2 A Looks to be some Hope canvases.
 3 Q Are those -- are those Hope artworks in
 4 the back of a car?
 5 A Yes.
 6 Q Okay. Do you know whose car that is?
 7 A It's mine, actually.
 8 Q Okay. And those canvases are not
 9 covered?
 10 A No.
 11 Q Okay. Okay.
 12 MR. RAKOWER: All right. We can go
 13 to page five.
 14 BY MR. RAKOWER:
 15 Q I'll ask you more about that in a bit.
 16 A Sure.
 17 Q You can go to page five.
 18 And the -- the blue message on the right
 19 of the screen is -- is from you; right? To
 20 Mr. Gonzalez?
 21 A Yes.
 22 Q Okay. And you say, "Hi. Do you have
 23 the box of little Hope canvases that are already
 24 framed? We've looked everywhere and that's the
 25 only other place I can think of."

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Do you see that?

A Yes.

Q Okay. And you go on to say, "What's -- we need what's in your house."

Do you see that?

A Yes.

Q All right. At that time, did you believe that artworks were in Mr. Gonzalez's house?

A Only because they weren't in the studio.

Q And what made you suspect that that they would be in Mr. Gonzalez's house as opposed to elsewhere?

A Because -- I don't know if that -- I -- it was at or around about the time that, like, he was -- like, went off the deep end.

So honestly, I didn't know what he had or didn't have or what he could have because he had access to the studio. I mean, when it was open. So I didn't know.

Q Okay.

MR. RAKOWER: We can put that document to the side for now.

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Q All right. There's an image on your screen; do you see it?

A Yes.

Q Okay. Do you recognize this?

A Yes, that's the sculpture with the tarp on it.

Q Okay. And where is this on the property?

A It's behind the big red barn -- it's behind Mike's residence.

Q Okay. And do you recall whether this was covered like this at the time of the inspection?

A I -- I think it was, but I -- I -- I couldn't be for sure -- I couldn't tell you for sure.

Q And why was it covered?

A My understanding, it was covered because it was being exposed to the weather and he was trying to find somebody to clean it.

And I -- that -- he never said that to me directly. I mean, he said it later. But that was my understanding.

MR. RAKOWER: All right. Why don't

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BY MR. RAKOWER:

Q Okay. And I want to go back to the May 25th visit. Okay? At -- at that time.

A Sure.

Q All right. Were there any artworks located outside on the property?

A There's a big sculpture that was at the -- the Democratic National Convention in 2008, I believe. It may have been covered with a tarp at that point. Mike -- I don't know if it was or not.

Mike covered it up, I was thinking, because it was nasty and he needed to try to get it cleaned. That was my understanding.

But yeah, that's the only -- that's the only other thing I could think of that's outside at the property that's Indiana.

MR. RAKOWER: Can -- can we put up Tab 15?

BY MR. RAKOWER:

Q And by the way, Ms. Vessecchia, the document, the -- the art -- the big sculpture you're talking about, is that a Hope sculpture?

A Yes. Yes, I'm sorry. Yes, that's it.

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ANNETTE VESSECCHIA

we mark this as Exhibit 10, I believe is the next number, and then we can put it away.

(Whereupon, Plaintiff's Exhibit No. 10, Photo, was marked for identification.)

MR. RAKOWER: Okay. And can we pull up Tab seven?

BY MR. RAKOWER:

Q Do you see an image on your screen, Ms. Vessecchia?

A Yes.

Q Okay. Do you recognize what's in this image?

A Yes.

Q All right. What is it?

A Those are the shelves that they were making to put into the storage unit in Middletown.

Q Okay. And what is that red building behind the shelves?

A That's the big red barn. That's Mike's residence. He lives upstairs and where the stone part is, that's the basement --

Q All right.

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1 ANNETTE VESSECCHIA
2 A -- storage.
3 Q After the May 31st -- the May 25th
4 visit, were artworks moved onto these shelves?
5 A Yeah. I'm just trying to think about
6 when the second visit was.
7 So yeah, after May 25th, yes.
8 Q And some time before August 5th; right?
9 A Which was the date of the second visit;
10 correct?
11 Q Correct.
12 A The answer to your question is yes.
13 Q Okay. And where were the artworks taken
14 from and put onto these shelves?
15 A They were taken from the basement of
16 that building.
17 Q Okay. So if you could -- if you could
18 take out your sheet of paper?
19 A Yup.
20 Q Okay? Put a spot for where the -- the
21 racks are behind the -- the big red barn and draw
22 an arrow from where the artworks were taken from
23 the basement of the residence to the racks behind
24 the big red barn.
25 A Like this?

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1 ANNETTE VESSECCHIA
2 A Uh-huh.
3 Q -- were they subsequently moved
4 somewhere else?
5 A Yes.
6 Q Where were they moved?
7 A To the storage facility in Middletown.
8 Q Okay. And that movement occurred before
9 the August 5th visit?
10 A Yes.
11 Q Okay. So can you draw another arrow
12 from the -- from the racks, I guess it would be,
13 off the property, to the storage facility in
14 Middletown?
15 A I'm sorry, I have you on the side of the
16 screen so it's hard to tell where the --
17 Q That looks --
18 A -- camera is.
19 Q That looks great.
20 MR. RAKOWER: And if we haven't
21 already marked this with an exhibit,
22 let's mark it with the next exhibit
23 number, which I believe is
24 Exhibit 11.
25

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1 ANNETTE VESSECCHIA
2 Like, an -- can you see --
3 Q I can't really see it.
4 A An arrow like that?
5 Oh, sorry.
6 An arrow like that?
7 Q Yeah, an arrow going from -- from the --
8 yes. From -- from the basement of the residence
9 to where the artworks were taken to the -- to
10 the --
11 A Shelves.
12 Q -- racks.
13 A Yup.
14 Q Okay. And you can put, you know --
15 A I just wrote "shelves."
16 Q Yeah. Okay.
17 And I think the arrow should start from
18 where the artworks were stored, but okay. That --
19 that works.
20 Let's do this. So were artworks also
21 moved from the studio to these racks?
22 A I don't know.
23 Q Okay. And these racks -- the artworks
24 that were on these racks outside of the -- the big
25 red barn --

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1 ANNETTE VESSECCHIA
2 (Whereupon, Plaintiff's Exhibit
3 No. 11, Photo of Racks in Front of
4 Red Barn, was marked for
5 identification.)
6 MR. RAKOWER: And we can take this
7 document off the screen.
8 BY MR. RAKOWER:
9 Q Let's talk about the three months just
10 prior to the May 25th visit?
11 A Uh-huh.
12 Q Were any artworks moved off the
13 property?
14 A Not that I'm aware of.
15 Q Okay. But the tarp was put on the --
16 the Hope sculpture prior to that visit?
17 A I -- I believe so.
18 Q Okay.
19 A I'm not sure when I even noticed it. I
20 just was like, okay.
21 Q So besides artwork, are there other hard
22 copy documents relating to Mr. McKenzie's
23 fabrication or sale of Indiana artworks on the
24 property?
25 A Yes.

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1 ANNETTE VESSECCHIA
 2 Q Okay. Are there hard copy documents
 3 relating to the inventory of artworks?
 4 A Yes.
 5 Q Okay. And how about hard copy sales
 6 records?
 7 A I'm sure. I've never seen those, but
 8 yes.
 9 Q Are you familiar with the term "art
 10 archive"?
 11 A Yes.
 12 Q What is that?
 13 A Actually, "art archive"? No.
 14 Q Well, you're familiar with the term
 15 "archive"?
 16 A Yes.
 17 Q Okay. What is an archive?
 18 A It's a -- I believe it to be like an
 19 inventory kind of program where you keep
 20 everything, you know, like, organized in a way
 21 that you kind of know what you have.
 22 Q Does Mr. McKenzie maintain an archive?
 23 A Yes.
 24 Q Okay. Do you assist with the
 25 maintenance of -- of the archive on his behalf?

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1 ANNETTE VESSECCHIA
 2 Q Where is it --
 3 A In fact --
 4 Q -- located?
 5 A Where is it? It's on the computer -- I
 6 mean, it's through a computer program.
 7 Q And you were about to say something, "In
 8 fact."
 9 What were you going to say?
 10 A Yeah, I mean, it's through an outside
 11 computer archive -- archive system.
 12 Q And you access it on the -- on the
 13 laptop that's in the studio?
 14 A Yeah, you just go to the website and log
 15 in.
 16 Q And you have the electronic copy in your
 17 files?
 18 A Yes.
 19 Q And that -- and that file is also
 20 accessible to Mr. McKenzie?
 21 A Yes.
 22 Are you specifically talking about the
 23 archive? Because the electronic -- the only
 24 electronic file I'd have would be a photo -- a
 25 photograph.

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1 ANNETTE VESSECCHIA
 2 A Yes.
 3 Q Okay. So what is reflected in
 4 Mr. McKenzie's archive?
 5 A Anything that's -- well, I didn't set it
 6 up, so I just kind of do maintenance on it. But
 7 it should be a pretty close representation of
 8 what's been manufactured, produced, however you
 9 want to say it, in addition to a photograph that
 10 goes along with that. Some -- some have --
 11 they're fully photographed and some are not.
 12 Q And Mr. McKenzie's archive reflects the
 13 Robert Indiana artworks within his possession?
 14 A Yeah. I mean, I can't speak for
 15 anything that he owns, like, before. But anything
 16 that's been produced, yeah. Yes.
 17 Q And -- and it reflects Robert Indiana
 18 artworks that were sold by Mr. McKenzie?
 19 A I -- I don't believe that it says --
 20 because the system is, like, decently new. I'm
 21 not sure if it says that an item was sold. It
 22 might. I mean, I'd have to go in and look.
 23 Q And you have -- you have access to that
 24 archive?
 25 A I have access to the archive, yes.

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1 ANNETTE VESSECCHIA
 2 The -- the system artwork archive, you
 3 load everything into it.
 4 Q Uh-huh.
 5 A I mean, that's the way it works.
 6 Q Okay. How often do you update the
 7 archive?
 8 A I mean, when everything was running, and
 9 it was pretty much any time a production was
 10 either moved, like, to a gallery show or maybe
 11 sent to Rosenbaum, some -- you know, when there
 12 was an event, you know, that happened with the
 13 artwork.
 14 Q And the archive, does it also reflect
 15 artworks that have been consigned by Mr. McKenzie?
 16 A It should. I don't know if it does.
 17 Again, that was not something that I
 18 really did. I mean, I tried to -- to deal with it
 19 after.
 20 But yeah, it probably says in there if
 21 something has been consigned.
 22 Q And are there -- there hard copy files
 23 from the archive in the -- on McKenzie's --
 24 Mr. McKenzie's property?
 25 A I'm -- I'm not sure what you mean by

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ANNETTE VESSECCHIA
that. I mean, everything is done over the web.
There's no -- again, the only thing that would be
a hard copy would be a photograph of an item.

Q I want to show you a document.

MR. RAKOWER: Can we pull up
Tab 12?

BY MR. RAKOWER:

Q So this was an exhibit that was shown to
Mr. McKenzie at his deposition. It was marked as
Exhibit 3.

I'm going to mark it in this exhibit --
in this deposition as Exhibit 12.

A Uh-huh.

(Whereupon, Plaintiff's Exhibit
No. 12, Excel Spreadsheet, was
marked for identification.)

BY MR. RAKOWER:

Q Do you recognize this document?

A I recognize the document. It's just an
Excel spreadsheet.

Q Have you seen an electronic copy of this
Excel spreadsheet?

A I doubt it, because it would have to be
something that I was specifically, like, looking

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ANNETTE VESSECCHIA
I'm just trying to figure out --
Like, I know where this was located as
far as like where this picture came from. Like, I
know it was on a clipboard. But I don't know
where this file would be in the computer. I'd
have to go look at it.

Q And where was this picture taken?

A This was in the studio.

MR. RAKOWER: Okay. And we can put
this to the side.

BY MR. RAKOWER:

Q So where -- where would hard copy sales
or inventory records be located on the property?

A I don't know about sales records. I
have -- I probably printed out some inventory out
of our archive system at some point.

The inventory Excel spreadsheet that you
were looking at, that was just in the computer. I
mean, we didn't -- I'm trying to think if there
would have been -- I mean, that's all kind of like
production stuff, which I wasn't really involved
with.

Q And you said it would be in the
computer. It would be on -- on the -- the shared

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ANNETTE VESSECCHIA

for.

I mean, you can see the date on it.
It's dated 2017. I -- I mean, I just wasn't
really in charge of, like, all the inventory.

I'm trying to figure out where -- yeah,
where this came from even.

Q You said you weren't in charge of the
inventory. Who was in charge of that?

A There was a girl, Clara (phonetic), who
did a lot of -- she did a lot of that. I'm trying
to think who might have. Because I don't think I
created this. I'm pretty positive. Pretty
positive.

Q Was this part of the archive that you
maintained?

A No.

Q Okay. If Mr. McKenzie testified that
you were responsible for maintaining this
document, would he be telling the truth?

A This particular document? I -- I don't
know because I'm trying to think who even -- this
could have been created by somebody a long time
ago and then somebody else kept up with this.

Hold on. I'm -- I'm still -- I'm sorry.

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ANNETTE VESSECCHIA
laptop?

A I -- I would think. I mean, I -- again,
I'd have to go searching for it or look for it.

Q Okay. If we talk about inventory of
records for -- for a second, to the extent that
there are hard copy inventory records --

A Uh-huh.

Q -- where would they be located on the
property?

A In -- at the studio, I would think.

Q On the --

A It could be --

Q Go --

A It could be in a box somewhere.

Q So in the studio. Would that be on the
first and second floors of the studio?

A Yes.

Q Okay. And you said they could be in a
box somewhere. Where would that be if not in the
studio?

A I would only think that it would be at
the studio.

I mean, are you talking about currently?

Q I'm talking about as of May 31st?

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ANNETTE VESSECCHIA

A Oh, as of May 31st.

Q Or May 25th?

A Yeah, I would think it would have been at the studio.

Q Okay. Would there have been any hard copy inventory records in the basements of Mr. McKenzie's residence as of May 25th?

A I don't know. I don't know that -- I don't know that.

Q Okay. Since May 25th, are you aware of any hard copy inventory or sales records being moved out of the studio to somewhere else?

A I just -- I just don't know. I don't know if -- if they were moved. It's not something that I dealt with, like, daily, so I -- I don't know.

Q Since May 25th, have you seen hard copy inventory or sales records anywhere other than the studio?

A No.

Q Okay. So you mentioned that you were present at the May 25th visit?

A (The witness nods head.)

Q And that you briefly met my colleague,

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ANNETTE VESSECCHIA

Mr. Nikas?

A Uh-huh.

Q Who else was present at that time? Was Mr. McKenzie there?

A No.

Q Okay. Was anyone else -- was any of his staff there?

A I was there.

Q Okay.

A Not the whole time, but I was there off and on.

Q Was Mr. Gonzalez there?

A Yes. Mr. -- yes, Oz was there.

I'm sorry, I was just about to say that. Yeah.

Q Was Mr. Ginexi there?

A No.

Q Okay. What did you understand the purpose of that visit to be?

A I thought they were coming to take an inventory.

Q An inventory of what?

A Of whatever Indiana artwork might be there.

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ANNETTE VESSECCHIA

Q And which part of the property did Mr. Nikas visit?

A I -- I -- the only time I saw him -- just the studio probably.

The only time I saw him was outside the studio or inside the studio.

Q Did you see Mr. Nikas or anyone from Morgan Art Foundation go to the -- the residence of Mr. --

A No.

Q Did you see anyone enter the basement of the residence?

A No.

Q Did anyone direct Mr. Nikas or -- or anyone from Morgan Art Foundation to go to the basement of the residence?

A I don't know. I can't speak for Oz. I mean, I didn't know.

Q But you didn't direct --

A No.

Q -- them to go to the basement of the studio?

A No.

Q Okay.

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ANNETTE VESSECCHIA

A I was just there if they needed a -- needed a question asked [sic].

Q And you didn't observe Mr. Gonzalez telling them to go to the basement of Mr. McKenzie's residence?

A No. I observed him talking to them a lot, but I have no idea what they were talking about.

Q Did anyone tell Mr. Nikas or anyone from Morgan Art Foundation, to your knowledge, that there were artworks located in the basement of the residence?

A I don't know.

Q Okay. All right. Let's switch -- now I'm going to talk to you about the August 5th, 2021 visit; okay?

A (The witness nods head.)

Q So I just -- and I also just want to cover the time period between May 31st and August 5th; okay?

A (The witness nods head.)

Q So between those two dates, we discussed that artworks were moved; is that right?

A Yes.

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1 ANNETTE VESSECCHIA
2 Q Okay. And artworks were moved out of
3 the studio?
4 A Uh-huh.
5 Q Onto racks outside of the barn; is that
6 right?
7 A Yes.
8 Q And artworks were moved from those racks
9 outside to a storage facility; is that right?
10 A Yes.
11 Q And that storage facility is in
12 Middletown, New York; is that correct?
13 A Yes.
14 Q Okay. Were artworks moved from the
15 studio to anywhere besides those racks outside the
16 big barn?
17 A I don't know. Like, can you be more
18 specific?
19 Like, only onto the racks or just
20 anywhere outside?
21 Q Sure. I --
22 A I'm sorry. I'm not trying --
23 Q Of course.
24 A I'm just trying to be specific.
25 Q Well, let me -- let me ask it -- maybe

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1 ANNETTE VESSECCHIA
2 basement of the residence?
3 A Yes.
4 Q And where were they moved to?
5 A Onto the shelves, into the storage unit.
6 I mean, you're specifically talking about the time
7 period between May 31st and August 5th; right?
8 Q We'll -- we'll -- we'll call it May 25th
9 and August --
10 A Oh, sorry. I'm sorry. May 25th and
11 August 5th.
12 Q Yes.
13 A Yes. Yes.
14 Q Okay.
15 A Wait. What -- did you -- you asked if
16 they were moved from the outside of the studio to
17 somewhere else; right?
18 What did you -- did you --
19 Q I asked -- I asked whether artworks were
20 moved from the basement of the residence to
21 anywhere else?
22 A Yes.
23 Q And where were they moved to?
24 A To the storage facility in Middletown.
25 Q Okay. If you want to draw another arrow

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1 ANNETTE VESSECCHIA
2 I'll ask it a different -- I'll ask it a better
3 way.
4 A Okay.
5 Q Artworks were moved out of the studio;
6 right?
7 A Correct.
8 Q Okay. Where were the artworks moved?
9 A I mean, they could have been moved into
10 the basement at some point. We moved artwork back
11 and forth between the basement and the studio all
12 the time to make room for shipments coming in or
13 whatever might need to happen.
14 Q So could you draw an arrow for me from
15 the studio to the basement of the residence where
16 the artwork was moved?
17 A Sure.
18 Am I getting it in the -- am I getting
19 it all on the screen?
20 Q It looks better than I would have done.
21 Thank you.
22 And we'll mark this as an exhibit at the
23 end.
24 So -- okay.
25 Were artworks also moved out of the

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1 ANNETTE VESSECCHIA
2 from the basement of the residence to the storage
3 facility in Middletown?
4 A I already have one.
5 Q Oh, okay. Great.
6 A Is -- is that what you're talking about?
7 I mean --
8 Q Yes. Yes.
9 A I already have --
10 Q Yes. Looks good.
11 Other than to the storage facility in
12 Middletown, was artwork moved off of the property
13 to anywhere else?
14 A Not that I'm aware of.
15 Q Okay. Which artworks were moved? If
16 you could identify them by the image?
17 A You mean, like, was it just Indiana
18 artwork or was it other artists' artwork? Is that
19 what you're asking?
20 Q So let's start with Indiana artwork;
21 okay?
22 A Yes.
23 Q Were -- were -- were Hope artworks
24 moved?
25 A Yes.

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ANNETTE VESSECCHIA

Q Okay. Were Dylan artworks moved?

A Yes.

Q Okay. And Dylan artworks were taken from the property, off the property?

A Yes.

Q Were Dylan artworks also taken from the -- from the studio and to the basement of the residence?

A During that time period, I -- I don't know.

I feel like something's getting twisted up here and I'm not -- again, I'm not trying to be vague. I'm just trying to figure out where -- what you're trying to figure out.

Q Why -- why don't we -- why don't we take the time -- put the time period aside for a second?

A Okay.

Q Do you recall any instance where Dylan artworks were transferred from the studio to the basement of -- of Mr. McKenzie's residence?

A Well, yeah. There must have been because they were printed in the studio, but they ended up in the basement.

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ANNETTE VESSECCHIA

Q Sure. And if you're confused by my question, let me know.

A Okay.

Q So at the time of the May 31st visit -- the May 25th visit -- apologies -- did Mr. McKenzie own Love artworks that were located in the basement of his residence?

A It's possible. I mean, I didn't -- I didn't take a full inventory of everything in there. So I don't know what -- I don't know everything that was located in the basement before it was moved, if that makes sense.

Q Okay. At the time of the August 5th visit --

A Uh-huh.

Q -- did Mr. McKenzie own Love artworks that were located in the basement of his residence?

A I wouldn't think so.

Q Okay. Between May 31st -- May 25th and August 5th, were Love artworks moved from Mr. McKenzie's property to a storage facility in Middletown?

A Yeah, that -- I mean, they must have

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ANNETTE VESSECCHIA

Q They were --

A I was probably not part of that. But yeah, I mean, that's kind of obvious.

Q And at the time of the May 25th visit, were there Dylan artworks that were located in the basement of Mr. McKenzie's residence?

A Probably.

Q Okay. What about Love?

A I just -- I'm -- were they moved? I mean, I -- I think there -- if there were Love items, they were probably already in the basement. I -- I don't know about the printing of Love. That was way before my time, so --

Q Mr. McKenzie has Love artworks on his property; is that right?

A I don't know if he has them on his property now, but he did.

Q Okay. And at the time of -- let's start with the May 31st visit.

A Okay.

Q And I apologize that we keep jumping around time periods. So I'm trying be precise --

A That's okay. Just as long as you define it. I mean --

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ANNETTE VESSECCHIA

been because I've seen them in the storage unit. I -- I didn't see it myself, but they're in the storage unit now.

Q And you believe that they were moved some time between May 25th and August 5th?

A Yes.

Q Okay. When did you begin -- sorry.

When -- actually strike that.

Were there blank silkscreens in Mr. McKenzie's basement in his residence at the time of the May -- May 25th visit?

A What -- what's a blank silkscreen? Just, like, a white piece of canvas? I don't -- I don't know what this is.

Q Why -- why don't we -- why don't we move to a different line of questioning, actually.

I -- I want to -- because I want to actually speak a little bit more generally and less -- less specifically.

A Okay.

Q Approximately how much art would you say was moved off of Mr. McKenzie's property to the storage facility in Middletown?

A Like, the number of pieces? No -- I

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ANNETTE VESSECCHIA

have no idea.

I mean, it was meant to be -- to organize Indiana's collection and get the basement cleaned out for -- per Mike's request.

Q So artworks were moved from the basement to the storage facility; is that right?

A Yes.

Q Okay. But artworks were also moved from the studio to the storage facility; is that correct?

A Yes.

Q Okay. How many trips were made between Mr. McKenzie's property and the storage facility between May 25th and August 5th?

A I don't know. I was only part of two of them. So I don't know.

Q Okay. When was the first trip that you recall?

A Somewhere around the fourth of July or fifth of July, maybe. Some -- I mean --

Q And you don't recall any -- any trips before that; correct?

A No.

Q Okay. And you mentioned that these

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ANNETTE VESSECCHIA

20 percent of his inventory remained on the property and 80 percent was -- was moved?

A Could be.

Q Is that right?

A Yeah, I mean, I haven't -- I haven't checked to see what's -- actually, I don't know. There could be more than that that's left. It's just the Indiana stuff is mostly in Middletown.

I mean, there's a decent amount of artwork still at the property that's not Indiana.

Q So let's focus on Indiana for a second.

A Okay.

Q Would you say 80 percent of his Indiana inventory was moved to Middletown?

A Yeah, if not more. Yes.

Q Okay. And of the -- do you still feel that 80 percent is your best estimate or would you say it's closer to 85 or 90?

A It could be higher. But yeah, I'm just -- I'm going to go with 80 so.

Q Okay. And of the -- of the inventory that remained on the property as of --

A Uh-huh.

Q -- as of the August 5th visit -- of the

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ANNETTE VESSECCHIA

trips were made at Mr. McKenzie's direction?

A Yes.

Q Okay. Did you talk to him about the purpose of those trips?

A He said he was cleaning the basement out because first of all, he was going to renovate it because he was going to close the studio, and then it was just going to make it easier to -- to have the collection all in one spot because it was just disorganized. I mean, it was.

Q And he had this conversation with you sometime around July 4th?

A Yes.

Q Okay. What percentage of his inventory would you say was moved off site to the storage facility in Middletown?

A I mean, 80 percent. I mean, because there's items in there that aren't -- that aren't Indiana. Large items that were taking up lots of space.

Q Okay.

A But I mean, I would say maybe 80 percent.

Q Okay. So 80 -- to be clear, so

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ANNETTE VESSECCHIA

Indiana inventory, to be clear --

A Uh-huh.

Q -- what percentage of that was located in the studio as opposed to in the basement of the residence?

A Well, there's nothing in the basement of the residence now. There's only -- only items in the studio.

Q Okay.

A At least I believe that to be true. I haven't been in the basement lately, but --

MR. RAKOWER: Could we pull up Tab one, which I think is going to be Exhibit 13, when we mark it.

(Whereupon, Plaintiff's Exhibit No. 13, E-mail, was marked for identification.)

BY MR. RAKOWER:

Q All right. Ms. Vessecchia, do you see a document on your screen?

A Yes.

Q Okay. I'm going to represent to you that this was taken from a production of documents made by Mr. Ginexi; okay?

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1 ANNETTE VESSECCHIA
2 A (The witness nods head.)
3 Q But do you see that this e-mail was sent
4 to you and others?
5 A Yes.
6 Q Okay. And it's sent by Mr. McKenzie?
7 A Yes.
8 Q Okay.
9 A I feel like I produced this as well, but
10 yes. Because we were all on the same e-mail.
11 Q Okay. Did you receive this e-mail on or
12 around July 4th?
13 A Yes.
14 Q Okay. And it says, "We will meet at
15 8 a.m. I will have bus in front of the house. We
16 will go up 22 fill up diesel full then stop at
17 Home Depot to pick up ten sets of metal shelves."
18 A Yes.
19 Q "See ya then."
20 A Yes.
21 Q "Thanks, Michael."
22 A Yes.
23 Q Do you see that?
24 A Yes.
25 Q Okay. Is Mr. McKenzie -- is

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1 ANNETTE VESSECCHIA
2 to you and others?
3 A Yes.
4 Q Okay.
5 MR. RAKOWER: I'd like to mark this
6 as Exhibit 14.
7 (Whereupon, Plaintiff's Exhibit
8 No. 14, E-mail, was marked for
9 identification.)
10 BY MR. RAKOWER:
11 Q This e-mail was sent by someone with
12 the -- the e-mail address pjarlicense@AOL.com.
13 Do you see that?
14 A Yes.
15 Q Who is that?
16 A That's just another one of Mike's
17 e-mails.
18 Q How many e-mail addresses does
19 Mr. McKenzie have?
20 A It's just this one and then the
21 mm2uwords -- I always -- I should know it by now.
22 But it's -- you know which one I'm talking about,
23 the mm2u4@aol.com [sic].
24 Q Have you seen Mr. McKenzie use an e-mail
25 address along the lines of "author fun"?

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1 ANNETTE VESSECCHIA
2 Mr. McKenzie discussing arrangements that would be
3 made for the transportation of artworks?
4 A Yes.
5 Q And those would be Indiana artworks?
6 A Yes. There could have been more than
7 just Indiana artworks, but yes.
8 Q Okay. And so this confirms your
9 recollection that the -- that the process of
10 transporting the art began on or around July 4th?
11 A Yes.
12 Q Okay.
13 MR. RAKOWER: As long as this is
14 marked as the next exhibit number, I
15 think it's 13, we can put this aside.
16 And then I want to put up Tab three.
17 BY MR. RAKOWER:
18 Q Okay. Do you see a document on your
19 screen?
20 A Yes.
21 Q Okay. I represent that this was also
22 taken from production of documents made by
23 Mr. Ginexi?
24 A Yeah. Okay.
25 Q Do you see that this is an e-mail sent

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1 ANNETTE VESSECCHIA
2 A Yes, actually I have.
3 Q Okay.
4 A Yep.
5 Q So that would be a third e-mail address
6 he has?
7 A Yes.
8 Q Okay. And this e-mail was sent to you
9 on or around July 5th; is that right?
10 A Yes.
11 Q Okay. And it says, "Given how long it
12 took I think starting at 8 am. Again, hopefully
13 finish packing by 1030 get there at 12. Assemble
14 the shelves and be done by two."
15 A Yes.
16 Q Do you see that?
17 A Yup.
18 Q Okay. Is this again referring to the
19 transportation of -- of Robert Indiana artworks
20 off of -- off of his property?
21 A Yes. And other, but yes.
22 Q Okay. All right.
23 MR. RAKOWER: All right. This
24 is -- we can put this document aside.
25 And we can pull up Tab two.

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1 ANNETTE VESSECCHIA
 2 COURT REPORTER: Did you mark that
 3 last one?
 4 MR. RAKOWER: I -- I thought I did.
 5 I thought I marked that one as
 6 Exhibit 14.
 7 TECHNICIAN: You did.
 8 COURT REPORTER: Sorry about that.
 9 MR. RAKOWER: No worries.
 10 And this is going to be 15.
 11 (Whereupon, Plaintiff's Exhibit
 12 No. 15, E-mail, was marked for
 13 identification.)
 14 BY MR. RAKOWER:
 15 Q I'll represent to you, Ms. Vessecchia --
 16 first of all, do you see the document on your
 17 screen?
 18 A Yes.
 19 Q Okay. I'll represent to you that this
 20 was taken from a production of documents made by
 21 Mr. Ginexi.
 22 A Okay.
 23 Q Okay. And this is an e-mail, once
 24 again, sent to you and others; do you see that?
 25 A Uh-huh.

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1 ANNETTE VESSECCHIA
 2 Q But you understood that Mr. McKenzie was
 3 planning on transporting Indiana artworks that day
 4 off of his property?
 5 A That's what -- yeah, I mean, that's what
 6 he said in the e-mail, so --
 7 Q Okay. I'm going to mark this as
 8 exhibit -- did we already mark this one? Sorry.
 9 We may have already marked this, so we
 10 can put this aside.
 11 Let's look one second.
 12 All right. Why don't we -- hold on.
 13 All right. In the movement to the
 14 storage facility, were any hard copy documents
 15 other than artworks transported to the storage
 16 facility?
 17 A Not that I know of.
 18 Q Okay. All right. So now we'll talk
 19 specifically about the August 5th visit for a
 20 second.
 21 A Okay.
 22 Q Are you aware that that visit was
 23 required by a court order?
 24 A Yes.
 25 Q Okay. Are you aware that that court

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1 ANNETTE VESSECCHIA
 2 Q Okay. I'll mark this as Exhibit 15.
 3 And this e-mail was again sent by
 4 Mr. McKenzie?
 5 A Yes.
 6 Q And you received this on or around
 7 July 21st?
 8 A Yes.
 9 Q Okay. And it says, "Truck is at studio.
 10 I need to bring down another 20 portfolios before
 11 we leave for storage."
 12 Do you see that?
 13 A Yes.
 14 Q All right. The truck that he's
 15 referring to is -- is a truck that's being used to
 16 transport Robert Indiana artworks?
 17 A Correct.
 18 Q Okay. And what is Mr. McKenzie
 19 referring to when he -- when he's discussing
 20 portfolios?
 21 A I'm sure Indiana portfolios since the
 22 idea was to get all the Indiana stuff together.
 23 Q All right.
 24 A This was not one of the trips that I
 25 went on so -- but yeah, that's what I would think.

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1 ANNETTE VESSECCHIA
 2 order came on or around June 29th of this year?
 3 A I -- no. I don't know when it -- when
 4 it came.
 5 Q Okay. Did you ever have conversations
 6 with Mr. McKenzie about a second visit?
 7 A I -- I mean, I'm sure he -- he was not
 8 happy with the first visit so the second visit was
 9 certainly something that he was concerned about.
 10 I mean, because the first visit was -- I don't
 11 know what the point of that was, but --
 12 Q In advance of the August 5th visit, did
 13 Mr. McKenzie tell you that Mr. Nikas would be
 14 coming to -- to the property?
 15 A I did not -- I did not know who was
 16 going to be at the visit. I just knew that there
 17 was going to be another visit similar to the one
 18 in May.
 19 Q When -- when did Mr. McKenzie first tell
 20 you that there would be another visit?
 21 A Oh, I don't even -- I mean, I'm not even
 22 sure. Honestly, I don't know.
 23 And it could have been Oz that actually
 24 told. But I'm sure Mike -- I'm sure we talked
 25 about it.

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ANNETTE VESSECCHIA

Q You mentioned that Mr. McKenzie wasn't happy that there would be a second visit?

A Well, no, because the first visit was a joke. I mean --

Q Was that -- was that Mr. McKenzie's view that you just reflected that the first -- first visit was a joke, or is that your own view?

A I could not figure out what they were doing. So I -- I guess it could be both. I mean --

Q Did Mr. McKenzie ever tell you that -- that he felt that the first visit was a joke or something to that effect?

A Yeah, he -- we could not figure out what the point of the first visit was because it wasn't for inventory, so --

Q Okay. What else did Mr. McKenzie tell you about the first visit?

A I mean, these were just things that I -- you know, these were just conversations between he and Oz. Or maybe we were all standing around and he was talking about it. It was really not much more -- it wasn't much more than that.

I mean, he didn't care that they came,

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ANNETTE VESSECCHIA

but they didn't -- he didn't feel like they came for what they said they were.

Q And what was Mr. McKenzie's reaction when he learned that there would be a second visit?

A I mean, he said, Okay.

But I'm not sure that, I mean, he was looking forward to it.

Q Did you ever hear Mr. McKenzie talk about the fact that there was a court order for the second visit to occur?

A Well, I mean, yeah, I guess. I mean, I just assumed.

You're asking all these questions that I -- I -- I couldn't tell you if it was specifically Mike or if it was Oz or if it was Oz and Mike.

I mean, it's a small studio so when everybody is standing around talking, you know, I glean whatever information I can. And he clearly talked to me about it because I was there, so --

Q And that -- that was a topic of discussion in Mr. McKenzie's presence; right?

A Yes.

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ANNETTE VESSECCHIA

Q Okay. And some of the -- the e-mails we were just looking at are from -- from mid- to late July; do you remember that?

A Yes.

Q And they were --

A The 5th and the 21st, yes.

Q Yeah. And they were transportations of artworks going --

A Uh-huh.

Q -- at that time?

A Uh-huh.

Q Did those transportations continue after that?

A I have no idea. I mean, I'm -- I'm not sure. Could be.

Again, I wasn't involved in all of -- you know, I don't recall.

Q Do you -- do you recall Mr. McKenzie ever putting an end to the transportation of artworks?

A I mean, I -- I think when everything was moved. Yeah. I mean, I'm sure it stopped at -- at some point.

Q Do --

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ANNETTE VESSECCHIA

A I just don't recall exactly when that was.

Q Do you know whether it stopped before the second visit?

A It could have still been going on after the second visit. I don't -- I don't recall.

THE WITNESS: I'm sorry, can I just ask -- I'm getting a text message from Kyle Ishman (phonetic), who's at the facility in Middletown.

MS. ZERNER: Oh, yeah. That's -- if you -- we'll need to take a break.

That's an attorney for the estate. We are dealing with another matter with the estate as well.

THE WITNESS: Okay. Sorry. I -- I just had to bring that up because he -- I've been in contact with him and he's texting me now. So --

MR. RAKOWER: Would a three-minute break be enough? Or is --

THE WITNESS: Yes, absolutely.

MR. RAKOWER: Okay. Should we return at 2:10? Does that work,

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1 ANNETTE VESSECCHIA

2 Bridget?

3 MS. ZERNER: My side froze there.

4 I don't -- three minutes -- just -- we

5 just need a couple minutes, Annette?

6 THE WITNESS: That -- yeah. That's
7 it. One minute.

8 I just need to answer --

9 MS. ZERNER: Okay. I'm not going
10 anywhere. I'll just stay on and wait
11 for you to do that -- take care of that.

12 MR. RAKOWER: Sounds good. Let's
13 go off the record and we'll go back on
14 at 2:10; sound good?

15 THE VIDEOGRAPHER: Off the record
16 at 2:08 p.m.

17 (Whereupon, there was a recess

18 taken from 2:08 p.m. to 2:11 p.m.)

19 THE VIDEOGRAPHER: On the record at
20 2:11 p.m.

21 BY MR. RAKOWER:

22 Q Okay. Ms. Vessecchia, you mentioned
23 that -- that you were present at the -- the
24 August 5th visit?

25 A Yes.

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1 ANNETTE VESSECCHIA

2 A I thought they were, again, coming to,
3 like, look at inventory. I wasn't exactly sure
4 what -- what that was about, but that was kind of
5 my understanding.

6 Q Were you concerned at all that if they
7 were coming to look at inventory, that some of the
8 inventory had been taken off -- off of the
9 property and put in the storage facility at that
10 time?

11 A Was I concerned?

12 I -- oh, I'm not even sure how to answer
13 that. I -- I mean, we just kind of do what Mike
14 asks us to do. I felt that he must have had --
15 that there must have been a purpose behind that.
16 I'm not sure if you want me to expand on that or
17 what, but --

18 MS. ZERNER: You can do it --

19 THE WITNESS: Okay.

20 BY MR. RAKOWER:

21 Q Did either you or -- or Mr. Gonzalez
22 tell Mr. Nikas, when he came for the August 5th
23 visit for what you understood to be to take
24 inventory, did either of you tell him that, in
25 fact, much of Mr. McKenzie's inventory had been

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1 ANNETTE VESSECCHIA

2 Q Do you recall who else was present?

3 A Some art handlers, I think. Actually --
4 oh, all the visits are, like, starting to blend
5 into the next.

6 Yeah, I -- I couldn't tell you the names
7 of -- of who they were. Again, I -- I didn't keep
8 up with that because I assumed that that was Oz's
9 job, so --

10 Q Mr. Gonzalez was there with you?

11 A Yes.

12 Q Okay. Was Mr. Ginexi there with you?

13 A No.

14 Q Was Mr. McKenzie there with you?

15 A I don't believe so.

16 Q And my colleague, Mr. Nikas, was there;
17 is that right?

18 A I -- I think so. I -- honestly, I -- I
19 couldn't tell you who he was if he walked up to
20 me, 'cause I just don't remember, like, who all
21 was there.

22 Oz was kind of, like, in -- in control
23 of that. So --

24 Q And what did you understand the purpose
25 of the -- of the August 5th visit to be?

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1 ANNETTE VESSECCHIA

2 taken off of the property?

3 A I don't think I did. I -- I don't even
4 remember talking to him.

5 Q And --

6 A I -- I just kind of stayed out of that.
7 To me, that was something that was meant to be
8 handled by what was supposedly our legal adviser.
9 So --

10 Q And who is that?

11 A That was Oz Gonzalez.

12 Q Did you observe Mr. Gonzalez tell
13 Mr. Nikas --

14 A I did not, no.

15 Q Okay. Sorry. I -- I'm just going to
16 need to ask the question, just for the record.

17 A Go ahead.

18 Q Did you observe Mr. Gonzalez tell
19 Mr. Nikas that artworks had been taken off of the
20 property?

21 A No, I didn't.

22 Q Okay. Thank you.

23 During the August 5th visit, which part
24 of the property did you observe Mr. Nikas visit?

25 A I only saw him in the studio portion.

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1 ANNETTE VESSECCHIA
2 But, again, I was not there for the entire visit.
3 So that's just what I saw.
4 Q Did you observe him visit the basement
5 of Mr. McKenzie's residence?
6 A No.
7 Q Okay. Did you tell Mr. Nikas that there
8 were artworks in the basement of Mr. McKenzie's
9 residence?
10 A No.
11 Q Did you observe Mr. Gonzalez telling
12 Mr. Nikas that there were artworks in the basement
13 of Mr. McKenzie's residence?
14 A No.
15 Q To your knowledge --
16 MS. ZERNER: We're still talking
17 about August 5th; right?
18 MR. RAKOWER: Correct.
19 BY MR. RAKOWER:
20 Q And to your knowledge, did Mr. McKenzie
21 tell Mr. Nikas that there were artworks located in
22 the basement of his residence?
23 A No. Not to my knowledge, no.
24 Q Okay. Can you take your -- we need to
25 mark your diagram as an exhibit. So can --

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1 ANNETTE VESSECCHIA
2 identification.)
3 COURT REPORTER: Is that 16,
4 Bernadette?
5 TECHNICIAN: Yes, it is.
6 MR. RAKOWER: Okay. Let's mark
7 this as Exhibit 16. Thank you.
8 And we can take this down. Okay.
9 Okay. So now let's pull up Tab 14.
10 BY MR. RAKOWER:
11 Q I'll represent to you that -- that this
12 document was taken from your -- your production.
13 A Uh-huh.
14 Q Did you receive this message?
15 A Yes, I did.
16 Q Okay. And it's -- it's -- did you
17 receive it on or around August 19, 2021?
18 A Yes.
19 Q And is this message from Oz Gonzalez?
20 A Yes.
21 Q Okay. And Mr. Gonzalez writes, "Please
22 let him know that I have enough information about
23 the inner workings of his operation to 'Bury Him.'
24 If there is a swindler and a Liar it's him. One
25 more attack from him and I will contact Lipson and

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1 ANNETTE VESSECCHIA
2 A Sure.
3 Q Can you do the same thing you did last
4 time and take a picture of it, send that to
5 Ms. Zerner?
6 A Sure.
7 MR. RAKOWER: And then, Bridget, if
8 you wouldn't mind putting it in the
9 Chat, we can mark that as an exhibit.
10 MS. ZERNER: Sure.
11 THE WITNESS: Okay. Bridget, I
12 just sent it.
13 MS. ZERNER: Okay.
14 MR. RAKOWER: Bridget, did you
15 receive it?
16 MS. ZERNER: Yeah. I just sent it
17 through Chat.
18 MR. RAKOWER: Okay. Bernadette, if
19 you could pull up that map.
20 TECHNICIAN: Just one moment.
21 MR. RAKOWER: Great. Thank you.
22 If we could mark this as the next
23 exhibit number.
24 (Whereupon, Plaintiff's Exhibit No.
25 16, Diagram, was marked for

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1 ANNETTE VESSECCHIA
2 Nikas and make his life and business ugly. I have
3 the goods."
4 Do you see that?
5 A I do.
6 Q What information do you understand
7 Mr. Gonzalez to be referring to here?
8 A I -- I have -- I -- I have no idea.
9 Q And there's a response from someone
10 named Peggy Cyphers.
11 Do you see that?
12 A Yes.
13 Q Who is she?
14 A That's Mike's girlfriend.
15 Q Okay. And does she live on the
16 property?
17 A Yes.
18 Q Does she work for Mr. McKenzie?
19 A No.
20 Q And she says, "Hi Oz, I understand, hope
21 you can get this talked out amicably ... he's
22 ready to close his business I guess. And starting
23 to look fresh" -- "start" -- "looking to start
24 fresh."
25 Sorry about that.

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ANNETTE VESSECCHIA

Do you see that?

A Yes.

Q What did you understand her to mean?

A I think because Oz was upset that Mike was going to close the business and he was going to lose his job and everything, and he was just pissed off.

So I think she was just trying to -- to answer it. Because it went from everything being fine one day, and the next day it wasn't.

Q And so what do you mean by "Mike was going to close his business"?

A Well, he was. I mean, he was going to close the studio. I mean, it -- I was -- all of this has taken a toll on his business. So, you know, we all knew it, and I'm sure that Oz was upset about it.

Q So sometime before -- on or before, you know, August 19th of this year, Mr. McKenzie told you that he was planning on closing his studio?

A He didn't actually tell me. I just knew it was coming. I mean, we all knew it was coming. It's -- you can't sustain something like this and still try to stay in business. So, I mean --

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ANNETTE VESSECCHIA

shut down one day, you know.

So I'm sure he's just taking time, but we -- you know, we all are preparing, you know, to not be able to work there anymore.

Q Okay. And by "close his business," would that entail selling his existing inventory?

A I -- I couldn't speak of that. I'm just talking about, like, you know, there would be no need for us to be around, you know, to maintain inventory or to, you know, do anything -- anything with -- with even the stuff that we have that's not Indiana.

Q And since -- since you got that text message on or around August 19th, have you had a subsequent conversation with Mr. McKenzie about the potential closure of his business?

A Yeah. I mean, he just -- he doesn't -- he -- he's never given me a for sure date, because I don't think he knows. So, you know, he's just -- yeah, this has -- this has been coming for a while.

Q Has he talked to you about things that need to be done in order to close his business?

A I mean, just stuff, like, We need to

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Q And -- and sustain something like what?

A This whole lawsuit. I mean, it's -- it's expensive and everything else that's gone with -- gone with it. So, yeah, I mean, we all knew.

Q And who -- who did you speak to about Mr. McKenzie potentially closing his business?

A I -- I mean, I didn't speak to -- you're talking about prior to this e-mail?

I mean, after this text message -- I was sitting there with Mike when I got this text message.

So I mean, he was like, Yeah, I mean, I'm going to close.

He had -- he had talked about it off and on, but just didn't -- hadn't given us, like, a -- a date --

Q Did he give you --

A -- which --

Q Did he give you a date when you had that conversation with him?

A No. No. Because I think, you know, he's -- he's still got the lawsuit and everything going on. I mean, he can't just, like, completely

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pack up artwork and get it organized and figure out where it's going to go.

'Cause we don't -- you know, we don't have just Indiana's stuff. We have -- we have other people's stuff and, you know, there's a whole studio with equipment and everything.

So I mean, he's -- he's talked about it a little bit, but I -- I only talk to him about it if he brings it up. I mean, I -- I'm not going to -- I'm not going to bring it up on him.

Q To your knowledge, has -- has he been looking for a buyer to purchase his existing inventory?

A No, not to my knowledge.

Q To your knowledge, what is he planning on doing with his existing inventory when the business is closed?

A I -- honestly, I have no idea. I mean, I -- I don't know what he's going to do with it.

MR. RAKOWER: We can put this document aside.

Have we marked this? If -- if we haven't, let's do the next exhibit -- exhibit number. I think it would be --

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1 ANNETTE VESSECCHIA
 2 TECHNICIAN: Seventeen.
 3 MR. RAKOWER: Okay. Great. So
 4 let's mark that text message as
 5 Exhibit 17. Thank you.
 6 (Whereupon, Plaintiff's Exhibit No.
 7 17, Text Messages dated August 19,
 8 2021, was marked for
 9 identification.)
 10 MR. RAKOWER: Let's go to the -- if
 11 you can pull up Exhibit 1, the subpoena,
 12 and if you could go to PDF page 10.
 13 TECHNICIAN: That's page 10.
 14 MR. RAKOWER: Great.
 15 BY MR. RAKOWER:
 16 Q All right. Ms. Vessecchia, do you see
 17 the document on your screen?
 18 A Yes.
 19 Q So we discussed earlier that
 20 Mr. Gonzalez submitted a declaration in this case.
 21 Do you recall that?
 22 A Yes.
 23 Q And this is Mr. Gonzalez's declaration
 24 in front of you; correct?
 25 A Yes.

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1 ANNETTE VESSECCHIA
 2 Do you see that?
 3 A Yes.
 4 Q Okay. The stencils that you've used, do
 5 they all have specific years on them?
 6 A Yes.
 7 Q Okay. And what do you understand those
 8 years to represent?
 9 A I mean, it could be the year that it was
 10 printed. I -- I'm actually not even sure why the
 11 years have changed. But I mean, you know, there's
 12 items that the stamp has to go on after. So my
 13 assumption was that it was just that year that it
 14 was printed.
 15 Q Okay. Did Mr. McKenzie ever tell you
 16 what the -- the year represents?
 17 A I -- I'm -- I'm not sure I ever asked
 18 him.
 19 Q Were you ever told that Mr. Indiana
 20 designed the stencils?
 21 A I mean, I -- yeah. Yeah. I mean, that
 22 was definitely my understanding, that, you know --
 23 when Indiana was alive, yeah, absolutely, he -- he
 24 was a part of that.
 25 Q The next sentence goes on to say, "None

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1 ANNETTE VESSECCHIA
 2 Q All right.
 3 MR. RAKOWER: If we could go to
 4 paragraph 10, which I'm trying to figure
 5 out which PDF page number it is.
 6 Yeah, there we go.
 7 BY MR. RAKOWER:
 8 Q Okay. So starting with the -- the
 9 second sentence, it says, "McKenzie uses a stencil
 10 and a stamp to forge Indiana's signature on the
 11 back of artworks."
 12 Do you see that?
 13 A Yes.
 14 Q Okay. And you've used the stencil to
 15 stamp Mr. Indiana's emblem on the back of
 16 artworks; is that right?
 17 A Correct.
 18 Q And every time you've done so has it
 19 been at Mr. McKenzie's direction?
 20 A Yes.
 21 Q Okay. The next sentence goes on to say,
 22 "The stencils were designed by Indiana during his
 23 lifetime and have specific years that are intended
 24 to indicate the year in which the artworks were
 25 created."

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1 ANNETTE VESSECCHIA
 2 of the stencils post-date 2018, when Indiana died,
 3 yet McKenzie has used those stencils after
 4 Indiana's death to sign works--falsely indicating
 5 that Indiana signed the works and falsely
 6 indicating the year in which the works were
 7 created."
 8 Do you see that?
 9 A I do.
 10 Q Okay. Did you ever see a stencil that
 11 postdates 2018?
 12 A No. I -- I mean, I'm -- again, I have
 13 not stenciled, you know, very much. But, no, I've
 14 never seen one.
 15 Q Did you ever see Mr. McKenzie or anyone
 16 at his direction use a stencil to input Indiana's
 17 emblem on an artwork after Mr. Indiana died?
 18 A Wait. Repeat that again. I just want
 19 to make sure that I understood that correctly.
 20 Q Let me just ask it -- ask it a different
 21 way.
 22 A Okay.
 23 Q Have you ever used a stencil after May
 24 of 2018 on an Indiana artwork?
 25 A Yes. Because they're -- yes.

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ANNETTE VESSECCHIA

Q Did you do so at Mr. McKenzie's direction?

A Yes.

Q Okay. Have you seen Mr. McKenzie use a stencil on an Indiana artwork after May of 2018?

A Yes.

Q Have you seen anyone else at Mr. McKenzie's direction use a stencil on an Indiana artwork after May of 2018?

A Yes.

Q Okay.

A Just to be clear, they weren't dated after 2018. I mean, they were dated whenever they created the artwork or whenever they decided that they would do that color wave or whatever it might be.

Q Have you ever used a stencil with a date that reflects 2018 or earlier on an artwork that you stenciled in 2019 or later?

A Yes.

Q Okay. Did you do so at Mr. McKenzie's direction?

A Yes.

Q And these were Indiana artworks with

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A Yes.

Q Great.

Did you ever speak to Tim Ginexi about stenciling?

A Yes.

Q What did you speak about?

A I mean, he told me he didn't like to do the stencil because it's a pain in the ass. And he's a printer, not a -- you know, he's a screen printer, not an airbrush operator. I mean, that's not what he's trained to do.

I've never heard him say what Oz is claiming.

I'm sorry. I'm just reading.

Q Well, we'll get to that in a second.

A Yeah.

I mean, no. I -- I mean, that's the only thing we ever talked about.

Q Have you ever observed Mr. McKenzie asking Mr. Ginexi to stencil?

A No.

Talking about, like, after 2018 or prior to that or just anytime in general?

Q Let's start with anytime in general.

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ANNETTE VESSECCHIA

Indiana's emblem?

A Yes.

Q Okay. Have you ever observed Mr. McKenzie using a stencil with a date that reflects 2018 or earlier on an Indiana artwork that us with being stenciled in 2019 or later?

A Yes.

Q Okay. And have you ever observed -- and, again, those were Indiana artworks with Indiana's emblem?

A Yes.

Q Okay. Have you ever observed anyone else using a stencil with a date that reflects 2018 or earlier on an Indiana artwork that was being stenciled in 2019 or later?

A Yes.

Q Okay. Who was that?

A Could have been Tim or Clara.

Q And was it your understanding that whoever was doing that was doing so at Mr. McKenzie's direction?

A Yes.

Q Okay. And, again, those were Indiana artworks being stenciled with Indiana's emblem?

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A Yes.

Q Okay. Anytime after 2018?

A Yes.

Q Okay.

A Yes.

I'm sorry.

I'm just having to -- I mean, all these different dates and everything, and I'm trying to remember who's worked and who hasn't. So, yes.

Q Have you ever observed Mr. Ginexi refusing an instruction by Mr. McKenzie to stencil an artwork?

A No.

Q Has Mr. Ginexi ever told you that he felt uncomfortable using a stencil?

A No.

Q Has Mr. Ginexi ever told you that he believed any of the artworks being prepared in Mr. McKenzie's studio weren't authorized by Indiana?

A Absolutely not.

Q Have you ever been hesitant to sign Mr. Indiana's signature on an artwork?

A I've -- first of all, I've never signed

Mr. Indiana's signature on a piece of artwork.

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ANNETTE VESSECCHIA

But, no, I don't -- I mean, are you asking about the stamp or the seal?

Q We can -- we can ask that question next, sure.

Have you ever been hesitant to -- to stamp Mr. Indiana's seal on an artwork?

A Not because I was uncomfortable with it, but because I'm -- I'm not very good with -- with an airbrush.

So, I mean -- but, no, I mean, I don't have a problem doing it, because I don't think there's anything wrong with it.

Q Have you ever spoken to Mr. Gonzalez about stenciling?

A I mean, maybe only to the point where, again, I'm like, Oh, I don't want to do this because it's, like, I'm not good at it, and I'm not good at the -- using the airbrush.

Q Have you told Mr. McKenzie that you didn't want to do it?

A Only in the same way that I just told you, that I'm, like, Oh, you sure you want me to do it? I'm not that good.

You know -- you know, that -- that sort

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Q Sure. This one is hundreds and hundreds of pages. So --

A Yeah.

Q Before you do that.

But -- but you recall that you produced, you know, hundreds of pages of text --

A Yes.

Q -- just last night?

A Yes.

Q Okay. And these are text messages between you and Oz Gonzalez?

A Yes.

Q Okay.

MR. RAKOWER: Can we mark this with the next exhibit number? I think it's Exhibit 18.

TECHNICIAN: Yes, it's 18.

MR. RAKOWER: Great.

(Whereupon, Plaintiff's Exhibit No. 18, Text Messages, was marked for identification.)

MR. RAKOWER: Okay. Can we go to page 285?

Maybe zoom in a little bit just so

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of thing.

Q And how has he responded?

A He's, like, It's -- you're -- I mean, just -- it's fine, but you'll -- you'll figure it out, you know. We need to get it done. So --

Q Were you worried that the stencil you applied would look inauthentic?

A Only because using an airbrush takes skill, and I haven't used one in 30 years. So that -- I mean, not that it wouldn't look authentic, but that it just wouldn't look even, if that makes sense.

MR. RAKOWER: Why don't we -- why don't we take this down for now. We're going to go back to it.

And why don't we put up Tab 21.

Okay.

BY MR. RAKOWER:

Q I'll represent to you I pulled this from your production you made last night.

Do you recognize this document?

A Yes. But I -- I would -- I need to read it again because there were so many. I don't know which one this one is.

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we can all read it. I'm just going to focus on the top part of that.

BY MR. RAKOWER:

Q Okay. And the second message is a message from you to Mr. Gonzalez; is that right?

A Yes.

Q And it says, "I've been 'weeding' out the stencils for the back of the little HOPE's." And it -- it goes on.

A Yes.

Q So the "HOPE's" are Robert Indiana artworks; right?

A Yes.

Q Okay. And you are talking about applying a stencil to Robert Indiana artworks in this text message; right?

A Yes.

Q Okay. What do you -- what do you mean by "'weeding' out the stencils"?

A So when you create a stencil, it's on a -- a piece of vinyl, and it runs through a machine that cuts out -- a stencil machine. And you have to pull out the pieces that, you know, you want the airbrush to cover, and that's called

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2 weeding out.

3 You use a X-Acto blade, and you -- you
4 have to weed that -- weed it out. That's what
5 it's called.

6 Q Okay.

7 MR. RAKOWER: And let's go to --
8 let's go to page 241. Okay. And let's
9 just look at the very top message.

10 A Yes.

11 BY MR. RAKOWER:

12 Q Okay. And this is a message from
13 Mr. Gonzalez to you. "Are you coming in today?
14 He really wants the stencils done. He asked me
15 about it last night."

16 A Yes.

17 Q Is "he" referring to Michael McKenzie?

18 A Yes.

19 Q Okay. Is this referring to applying
20 stencils to Robert Indiana artworks?

21 A Yes.

22 Q Okay.

23 MR. RAKOWER: If we -- if we go
24 back to the big screen -- sorry. If
25 we -- stop zooming out and just show the

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2 probably printed whenever -- or that color wave
3 had been decided in whatever year that was,
4 because you -- you can't stencil -- clearly, you
5 can't seal the back of something that doesn't have
6 anything on the front. So it's never done at the
7 same time.

8 Q And that year, whatever year it was,
9 would have been 2018 or prior; right?

10 A Yeah. Way prior likely.

11 Q Okay. And the stencil that you were
12 applying to Indiana artworks at that time, that
13 was being done at Mr. McKenzie's direction --

14 A Yes.

15 Q -- is that right?

16 A Yes.

17 Q Okay.

18 MR. RAKOWER: We can -- let's
19 mark -- we already marked this document.
20 So we can just put it to the side. I
21 believe.

22 BY MR. RAKOWER:

23 Q So do you know whether Mr. McKenzie owns
24 guns?

25 A I mean, he says he does.

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2 full document.

3 Okay. If we scroll up two pages to
4 page 239.

5 BY MR. RAKOWER:

6 Q Do you see at the very bottom of the
7 page that that string of messages was sent on or
8 around November 9th of 2020?

9 A Yes.

10 Q Okay. And at that time, had you been
11 applying stencils to Robert Indiana artworks?

12 A Yeah, I'm sure.

13 Q Okay.

14 A I mean, I don't even know what that's a
15 picture of.

16 Oh, that was during the election. Okay.

17 Q Yes, that's right.

18 A Yeah.

19 Q And so the stencils that you were
20 applying on or around, you know, November of 2020,
21 those stencils had dates on them?

22 A Yes.

23 Q Okay. And those dates did not reflect a
24 2020 year; is that right?

25 A No. They -- they -- the artwork was

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2 Q What has he told you about owning guns?

3 A I -- it's probably just come up in
4 conversation. I mean, I -- I -- I mean, I couldn't
5 tell you -- he's not threatening me if that's what
6 you're asking. He's --

7 Q How many times has -- has the topic of
8 Mr. McKenzie's gun ownership come up in
9 conversation?

10 A In the ten years that I've been working
11 there, I don't know. Once or twice maybe.

12 Q Okay. Has Mr. McKenzie ever discussed
13 gun violence?

14 MS. ZERNER: Objection. Vague.

15 But you can go ahead and answer.

16 A I -- I have -- I have no idea, like --
17 I -- I don't know. I don't recall.

18 BY MR. RAKOWER:

19 Q Okay.

20 MR. RAKOWER: If we pull back up
21 Exhibit 1. Okay. And give me one
22 moment just to find the right page to
23 direct you to.

24 We're going to PDF page 13. Okay.
25 And we're looking at paragraph 12.

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BY MR. RAKOWER:

Q So the second sentence begins, "Among the artworks that McKenzie has forged recently are hundreds of silkscreens of Four Seasons of Hope, as well as two HOPE sculptures that are in the process of being created."

Do you see that?

A Yes.

Q Okay. Are you aware of two HOPE sculptures that are in the process of being created?

A I'm -- I am not. I've -- I've not been involved with the sculpture process very much.

Q Have you seen silkscreens of Four Seasons of Hope being created in the past year?

A In the past year?

I mean, probably, yeah.

Q Do you have any reason to -- to doubt Mr. Gonzalez's account that there were hundreds of silkscreens --

A I don't know if there were hundreds, but there are possibly some. It was my understanding that Mike was allowed to continue to create until arbitration.

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what year. Whatever year that was decided to be printed or -- or were actually printed, because I don't know what the date -- I don't know if the date is for the artwork's creation or if it's the date of when it was silk-screened.

Wait. Hold on.

Oh, no, you're talking about the Four Seasons. Okay.

I'm sorry. I just wanted to read that again.

Q I'm just looking at my notes here.

MR. RAKOWER: We can put this document to the side.

BY MR. RAKOWER:

Q So you understand that Mr. McKenzie is in litigation with Morgan Art Foundation; right?

A Yes.

Q Okay. Who have you discussed that litigation with?

A Mike, Tim. My husband, I'm sure. Not any -- not anything in particular, but --

Q Have you discussed it with Mr. McKenzie's lawyers?

A Yeah.

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But, again, you know, we only go on the direction of -- of Mike.

Q And the last sentence says, "He is presently creating many Four Seasons HOPE silkscreens that he intends to stencil, which I know because I saw a large stack of the works and also heard McKenzie ask Annette to stencil them."

Do you see that?

A Yes.

Q Okay. Did Mr. McKenzie ask you to stencil Four Seasons of Hope artworks this year?

A Yes. I'm sure he did.

Q Okay. And is it fair to say that there was a stack of those artworks?

A Yes. I don't know about hundreds, but there was a stack, for sure.

Q And the stencils he was asking you to apply did not have a 2021 year on them; is that right?

A No.

Q What year was on those stencils?

A I don't know. I'd have to go back and look -- look. I -- I -- yeah.

I don't -- I -- honestly, I don't know

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Q What --

A Oz. Definitely, Oz.

Q Okay. And what -- what -- what's the nature of these discussions?

MS. ZERNER: Objection. Compound.

MR. RAKOWER: Okay.

BY MR. RAKOWER:

Q What -- what are the -- what's the nature of your discussions regarding this litigation with Michael McKenzie?

A I -- I have no idea. It's probably whatever was brought up, if Oz brought something up or, you know, if Mike brought something up or -- I mean, I -- I couldn't tell you exactly what.

Q Has Mr. McKenzie ever relayed to you advice that was given to him by his counsel?

MS. ZERNER: And I just --

objection. I need to make an objection

here to the extent they are

conversations -- there may be certain

circumstances where Ms. Vessecchia was

involved in attorney-client

communications, either now because we're

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directly representing her or because she
was necessary to an attorney-client
privileged communication between us and
Mr. McKenzie.

So otherwise, outside that, if
there were conversations, I need to make
an objection to the extent that
Mr. McKenzie hasn't waived his privilege
to those conversations.

BY MR. RAKOWER:

Q Ms. -- Ms. Vessecchia, do you have an
engagement letter with -- with Ms. Zerner or her
law firm?

A An engagement letter?

No. I -- no.

Q When -- when did Ms. Zerner and her law
firm start representing you?

A On or about the time of the subpoena.

Q Okay. And what role would you say you
play in assisting Mr. McKenzie in the defense of
his lawsuit?

A I guess just to answer the questions
that attorneys and people are asking, to produce
documents, to be a witness. I --

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MS. ZERNER: Yeah. I -- I mean, I
can give one example. For instance, I
mean, it's been clear in -- in dealing
with Mr. McKenzie that he has issues
with -- with technical- things and
computers, for instance.

I know there may be
communications -- I don't think there's
many, but there may be communications
that involved our advice -- you know,
privileged communications between us and
Mr. McKenzie, including if we were
looking for a particular document or
information where he asked
Ms. Vessecchia to provide that to us
because he was unable to do it himself.

And that might have -- you know,
that correspondence of asking her to do
so might have been via e-mail that
included something that would be
privileged, and that's the kind of thing
that I'm talking about.

MR. RAKOWER: Okay. I -- why don't
we take this question by question and --

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Q Have you ever been necessary to an
attorney-client communication between Mr. McKenzie
and his lawyers?

MS. ZERNER: Objection to the
extent that calls for a legal
conclusion.

You can answer.

A I'm not even a hundred percent sure what
that means.

But if I was ever copied on something,
if that's what -- I mean, it was because Mike
copied me on it or asked me to send something. I
mean -- if that's what you're talking about.

BY MR. RAKOWER:

Q Yeah. I -- no, I'm just trying to --
I'll -- I'll deal with this later. I'm just
trying to --

MR. RAKOWER: Ms. Zerner, I'm just
trying to establish a foundation here
for what -- what -- how Ms. Vessecchia
could be within the privilege for any
communications before the date of the
subpoena, when she apparently retained
you as counsel.

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and I'll let you know, you know, if we
have -- hopefully, we won't come to a
disagreement about whether or not I'm
calling for a privileged communication.

Is it fair to say, Ms. Zerner, I
haven't asked for any -- anything that
would fall within the privilege now;
isn't that right?

MS. ZERNER: Well, I mean, the
earlier question was pretty broad. So I
mean, you continue. And if I think that
it's of a concern, I'll express an
objection.

BY MR. RAKOWER:

Q Do you ever discuss with Mr. McKenzie
his strategy for this litigation?

A No, not really. I mean, he doesn't --
he doesn't discuss strategy.

I mean, I just work for him. So I'm
around, and if he needs help with something or
needs me to do something for him, then, you know,
that's what I'll do.

Q Has Mr. Gonzalez ever discussed with you
Mr. McKenzie's strategy for this litigation?

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A I -- I can't speak to whether it was actually Mike's strategy. It seems like it was Oz's strategy.

Q And what was --

A And --

Q What was --

A Well, he might just say, I think he should -- I mean, I'm trying to even think, like, what would be an example. I think he should ask for this when we go to Maine or I think I should --

I mean, I can't give you anything, like, specific. But, yeah, he was discussing stuff all the time. Excuse me. Not all the time, but frequently.

THE WITNESS: Hold on. Can you just give me one second so I can --

MR. RAKOWER: Can we take a -- can we take a four-minute break, actually, until three o'clock; is that okay?

MS. ZERNER: Sure.

THE WITNESS: Fine.

MR. RAKOWER: Great. All right. Let's go off the record.

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sure I would know how to, like, repeat it, because I don't speak, like, legalese.

He was just constantly discussing or asking me for documents or telling me, like, to -- to put items together and send them to whoever they needed to be sent to. I even -- he dictated things to me that -- I mean, I couldn't tell you what it was. I might have to go back and, like, look that up 'cause I -- I just -- I just now thought of it.

It's -- I -- I felt like he thought I was his legal secretary. Really, that's the best way to describe it. Which I'm not.

Q Did you ever -- did you ever have conversations with Mr. McKenzie about the prospect of settling this litigation?

A I mean, yeah, I think -- I mean, I think he would have liked for that to happen. It was never anything specific, like, a dollar figure or what it was going to be or -- I think there was some talk, I guess, in Maine. They came to something.

I -- I -- again, I don't know what all of these things are, I mean, but it's not, like,

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THE VIDEOGRAPHER: Off the record at 2:57 p.m.

(Whereupon, there was a recess taken from 2:57 p.m. to 3:03 p.m.)

THE VIDEOGRAPHER: On the record at 3:03 p.m.

BY MR. RAKOWER:

Q Okay. So you mentioned that -- Ms. Vessecchia, I see that you're muted. I see that you're muted.

A Sorry.

Q No worries.

So -- so you -- you mentioned that you had discussed what you termed as Mr. Gonzalez's strategy for Mr. McKenzie in this litigation, with Mr. Gonzalez; is that right?

A Yeah. It was more, like, Oz just saying what he wanted to say and just being bossy, but -- I mean, yeah.

Q And what were some of the things that he told you?

A Oh, I just don't -- I just -- I can't think of, like -- I can't think of, like, anything, like, specific. And I -- I'm not even

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we sat down and, like, had a conversation over dinner, you know. It just -- it didn't really work like that.

Q And what did Mr. McKenzie say to make you believe that he would like for a settlement to happen?

A Well, I mean, he -- it just, you know, he had all this artwork that he thought the estate would want. I mean, that would be helpful, you know, to them.

I mean, it was really just, you know, stuff like that. I mean, really that was the whole idea behind organizing all of -- actually, I -- I shouldn't even say that 'cause I -- I don't know. I can't say what the idea behind the organizing was. I -- I may have just kind of made that up or assumed that on -- on my end.

But, I mean, he definitely seems, like, he wanted to, like, work something out, but it wasn't anything, like, specific.

Q And what -- is it -- is it your understanding that a settlement of this case for Mr. McKenzie would involve him selling his existing artworks?

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A If that's how that works. I mean, again, this is all, like, assumptions kind of made on my part, you know, but I've been -- I -- I would assume that that's the way that would work. I don't -- you know, I don't know.

MR. RAKOWER: So why don't we -- why don't we take back out Tab 21. And this -- these are the hundreds of pages of text messages.

And, Bernadette, I don't know if you recall which exhibit number this is?

TECHNICIAN: It's 18.

MR. RAKOWER: Okay. Let's take out Exhibit 18.

BY MR. RAKOWER:

Q And, Ms. Vessecchia, you see the document on your screen?

A Yes.

Q Okay. And these are text messages between you and -- and Mr. Gonzalez?

A Yes.

Q Okay.

MR. RAKOWER: Can we go to page 376?

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know if that's actually who he was talking about, but that's my guess.

MR. RAKOWER: Okay. Why don't we go to page 290.

BY MR. RAKOWER:

Q Okay. If you see at the bottom, there's a message from -- from Mr. Gonzalez that begins with, "We are in deep poop in the case." And there's an emoji.

A Right.

Q Okay. And the last line talks about, "Federal Court denied all the new claims in the Amended complaint."

Do you see that?

A Yes.

Q Okay. Is Mr. Gonzalez referring to this action?

A What do you mean by "this action"?

Q The litigation between Morgan Art Foundation and Mr. McKenzie in federal court.

A I, for some reason, think -- I -- I think I thought that it was about the estate, something involving the estate.

I -- I'm not even sure, Ryan. I

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One second. Yeah, there we go.

Okay.

BY MR. RAKOWER:

Q So in the middle of the page, Mr. Gonzalez wishes you good morning, and he says, "That was awful yesterday. It was a complete setup." And he clarifies that he's discussing an arbitration.

Do you see that?

A Yes.

Q Okay. And he says, "But they say they want to buy the whole collection. Which I don't trust. We are waiting for the amount they are going to proffer. That I'm certain Michael will find unsatisfactory."

Do you see that?

A Yes.

Q Who is he talking about?

A I actually don't know.

Oh, he could be talking about the estate.

Q Okay.

MR. RAKOWER: Why don't we go to --

A That's probably what I thought. I don't

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don't -- half of the stuff that he sent me I -- I didn't understand and, it was completely pointless to try to, you know, text it.

Q Okay.

A It -- I think I was, you know, focused on the Shelley Lieberman part. I don't -- I -- honestly, I don't know.

Q Do you have any understanding of why Mr. Gonzalez told you that, "We are in deep poop in this case"?

A I don't -- no, I don't.

He was always, like, overly dramatic, like, about everything. So I -- I -- I couldn't -- I couldn't tell. I mean, I -- I felt like he was trying to get me on his side.

And clearly, on his side -- I -- who the -- I don't know who the hell's side -- his -- now that I know what I know, I don't -- I -- I -- honestly, I don't -- I don't know.

Q Let's go to page 284.

Okay. And let's start with the text beginning with "Things are looking ugly here."

A That --

Q That's from Mr. Gonzalez; right?

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Mr. Gonzalez says, "Things are looking ugly here. He has to go to arbitration. But is not going to pay. Negating his counterclaims. Court of Appeals ruled against him."

And you --

Do you see that?

A Yeah.

Q Okay. And you respond, "So what does this [sic] mean -- what does that mean? Why can't he just stop and think about the big picture?"

Do you see that?

A Yeah.

Q What do you mean by that?

A I -- I guess I was just trying to figure out, like -- because I don't -- I don't fully understand everything about the arbitration and the -- the federal stuff and -- and y'all and all of it. I was just trying to make a gross generalization on why you can't stop and think about the big picture as being stop all of this. Figure out how to make all of this go -- stop.

I mean, you know, it wasn't anything, like, in particular, it was just, like: Aren't you tired of this this? Aren't you tired of

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You ned to --

And I'm like, when Mike tells me to do that then I'll do it.

Q Okay. Let's go to page 155.

Okay. And I'm looking at the -- at the bottom text. It's from Oz to you.

And it says, "The Simoni thing is a catastrophe."

Do you see that?

A Hold on. I'm looking for it.

Q It's the very last --

A Oh. Yeah.

Q You see that?

A Yeah.

Q Okay. Let's go to the next page and I want to look at the top of the next page.

A Okay.

Q Okay. And there's a response from you that says, "I know...ugh."

Do you see that?

A Yup.

Q Okay. What is "The Simoni thing"?

A When I -- when I said that I just meant that Simoni being his attorney was just a mess. I

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spending the money? Aren't you -- I mean, why can't you just, like, figure this out?

Q Did you ever --

A That's --

Q Did you ever tell that -- express that view to Mr. McKenzie?

A Oh, no. Uh-uh.

Q Why not?

A No. I mean, I don't want to hit -- I mean, I don't -- I tried not to bring up that kind of stuff anyway.

I mean, I stayed uninvolve- -- I only got involved when I was asked to be involved until Oz came along and then I felt like I was constantly involved. Because, again, I felt like I was his legal secretary. So --

Q And besides text messages with Mr. Gonzalez, how else did he involve you in, sort of, Mr. McKenzie's legal strategy?

A Well, just like even when I'm at the studio, my boss is Mike. I have projects that I'm working on for Mike.

And Oz was constantly asking me, You need to do this. You need to get these documents.

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don't -- I don't -- he couldn't deal with Mike and Mike couldn't deal with him and it just never, like -- it never seemed to work out.

Hold on. I'm looking at what's underneath that because that might give me some clue as to why --

There was something that happened between Simoni and the whole arbitration thing. I never understood it. And -- and to be very honest, I didn't want to. I have enough things on my plate.

This -- this -- you know, this wasn't something that -- that I really wanted to be involved with but I -- I kind of thought maybe that Simoni was pissed off and -- and something happened there. I mean, that's -- that's all I know.

Again, I -- I -- I just -- I didn't want -- it was too much trouble to try to figure out what all that meant because I'm just not interested in being, like, understanding all the legal stuff because I don't speak that language.

Q Sure. So -- so John Simoni -- this is referring to John Simoni; right?

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A Yes. Yes.

Q And John Simoni was Mr. McKenzie's prior counsel --

A Yes.

Q -- before Ms. Zerner and her firm stepped in; is that right?

A Correct.

Q Okay. And you mentioned that you didn't believe that Mr. Simoni and Mr. McKenzie were getting along; is that right?

A Right.

Q Okay. Did you ever observe them fighting?

A I don't know -- I'm trying to think if they -- if he was ever on a phone call that might have been -- well, they were almost always on speakerphone. But the way it's situated, I -- I couldn't hear everything.

I don't believe I ever heard Mike being in a fight with Simoni. But Oz used to say that he did so, you know, I don't -- I don't know.

Q Who -- what did --

A I mean, I don't know if he did or he didn't.

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But as far as Simoni burying him intentionally, I don't know how that happened or if that's even true but I did hear Oz talking about it, like, a lot. I just never fully understood what it was.

Q Okay.

A It just got -- and it got to the point where I would let it go in one ear and out the other.

Q Okay. Let's go to -- let's go to page 154.

A Oh, my gosh.

Q Apologies. That's not what I'm going to be asking you about.

A Seriously, could this day get any better?

Q So I won't be asking you about the image that appears on this page. Why don't we zoom in on the text at the top of the page so we just have that.

Perfect. So --

A Thank you.

Q No problem.

So Mr. Gonzalez says, "New lawyers

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Q What did Oz ever say that Mr. McKenzie and Mr. Simoni were fighting about?

A Oh, he didn't say. He never, like, gave a, like, a subject matter.

He would just say, you know, there was yelling and screaming, you know, there was cursing between the two of them. He -- it was never anything specific. Probably because I would roll my eyes and not want to hear what it was because I was tired of hearing about it.

Q Okay. And -- and the third text down -- so there's your response. There's another text by Mr. Gonzalez.

The third text down says, "The problem with arbitration is that he signed a contract. That's 220,000. That was evil by Simoni. Simoni buried him intentionally."

Do you know what that's referring to?

A That -- I mean, the only thing that I know about that is -- I don't even want to say because it's going to be so far off because I'm sure that I'm not right. But I guess he was supposed to pay a fee by -- with the arbitration people. And again, I don't know what that means.

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turned down Mike."

And he says, "I'm glad I set you up with Charles you should be okay there."

You say, "I'll be there at 2 or before."

And you say, "I figured they turned him down because of his text."

Do you see that?

A Yeah.

Q Okay. What are you referring to there?

A I don't know. I'm trying to remember. I mean, I remember when he was looking for new attorneys but, like, I can't remember what -- what the text was.

I'm sure it was something that Oz told me. He probably said, We might have been able to get this new attorney except Mike sent some crazy text. I -- you know, I just don't know.

Q You don't know?

A Yeah. I'm sorry.

There were just so many that I just don't know.

Q So many what?

A So many -- so many conversations like this --

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 2 Q Okay.
 3 A -- text messages --
 4 Q Okay.
 5 A -- about, you know, Mike and his goings
 6 on.
 7 Q Okay. Let's go to page 150.
 8 Okay. And -- and do you see that this
 9 is a conversation about whether there could be a
 10 copyright or trademark to the HOPE image?
 11 A Right.
 12 Q Okay.
 13 A This is why I --
 14 Q And let's go to the next page.
 15 So in the context of that conversation,
 16 you suggest that Mr. McKenzie take a deal with the
 17 estate and then create a HOPE logo; do you see
 18 that?
 19 A Hold on.
 20 "Create the [sic] Hope 'logo' if you
 21 still want to" --
 22 MS. ZERNER: Could you zoom in on
 23 that? I can't see what the text says.
 24 THE WITNESS: I --
 25 MS. ZERNER: Please. Thank you.

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1 ANNETTE VESSECCHIA
 2 the picture all together? Really?
 3 Q Okay.
 4 A That's -- that's the way that was meant.
 5 MR. RAKOWER: All right. Let's go
 6 to page 84.
 7 Okay. And let's zoom in just on
 8 the bottom half beginning with "They are
 9 talking about."
 10 There you go. Let's see if that
 11 will be big enough.
 12 Okay.
 13 BY MS. ZERNER:
 14 Q Can you see that?
 15 A Yup.
 16 Q Okay. So Mr. Gonzalez says to you "They
 17 are talking about having you testify in a
 18 deposition and Peggy."
 19 Do you see that?
 20 A Yup.
 21 Q And Peggy, we discussed before, is
 22 Mr. McKenzie's girlfriend?
 23 A Yes. But not current girlfriend. This
 24 Peggy is his prior girlfriend. He just happens to
 25 have another girlfriend named Peggy.

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1 ANNETTE VESSECCHIA
 2 THE WITNESS: I'm trying to read it
 3 too.
 4 TECHNICIAN: I'm sorry. Which one
 5 was it?
 6 MR. RAKOWER: Zoom in on the third
 7 blue bubble and some of the messages
 8 below it?
 9 There you go.
 10 A "So you take the deal and then create a
 11 Hope "logo" if you still want to use it."
 12 Yeah. Oh, because Oz had brought this
 13 up. I guess this is one of the things about,
 14 like, strategy. He felt like if you could make a
 15 logo and then trademark that logo, then you -- you
 16 could do that. Like, he had -- he had mentioned
 17 that prior to this, you know, prior to this
 18 conversation.
 19 Q And one of your suggestions is that
 20 doing that would "take Indiana out of the picture
 21 all together."
 22 Do you see that?
 23 A Well, yeah. But I'm -- that was meant
 24 to be, like, facetious.
 25 Like, really? Just take Indiana out of

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1 ANNETTE VESSECCHIA
 2 Yeah. No. This is a different Peggy.
 3 Q So which Peggy is this referring to?
 4 A This is Peggy Malone.
 5 Q Okay. And who is the -- and remind me
 6 the name of the current girlfriend?
 7 A The current girlfriend is Peggy Cyphers.
 8 Q Okay.
 9 A And -- and -- but Peggy Malone did work
 10 for Mike.
 11 Q Okay. And you respond, "I'll do
 12 whatever...Peggy I wouldn't trust and they should
 13 know that...the old Peggy right?"
 14 Do you see that?
 15 A Yup.
 16 Q So that -- by the "old Peggy," you are
 17 referring to Peggy Malone?
 18 A Correct.
 19 Q Okay. And peggy Malone used to work for
 20 Mr. McKenzie?
 21 A Yes.
 22 Q In what capacity?
 23 A She was, like, a -- I mean, like a
 24 secretary, I guess. I mean, she kind of did
 25 whatever. She was crazy but -- Mike didn't say

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2 that, we -- we just could all see it.

3 "She's mentally unstable and would have
4 many reasons to screw Mike over...just saying."

5 Yeah. I mean, did you have any more --
6 another questions about that?

7 Q How long did she work for Mr. McKenzie?

8 A I don't know in total. She was there
9 when I started. And then she quit -- oh, man --
10 in what -- in what year did she quit?

11 I don't know, maybe 2015. I'd have to
12 go back and look. She was there for a few years,
13 when I first started.

14 Q What were you worried about Ms. Malone
15 saying in a deposition?

16 A She was just -- oh, I -- I just feel
17 like that she was -- was, like, trying to be
18 underhanded with Mike. And I'm not just saying
19 this to be mean, I -- I really do think that she
20 was mentally unstable and was just irritated with
21 him, you know?

22 And, I mean, he broke up with her so,
23 like, it was, you know, personal stuff.

24 Q Did she have knowledge of any forgery or
25 misapplication of Mr. Indiana's signature on

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2 sitting here for a deposition today you are
3 helping Mr. McKenzie?

4 A I -- I would think. I'm certainly not
5 trying to harm him.

6 Q Okay.

7 MR. RAKOWER: Why don't we put that
8 document aside. I only have a couple
9 more documents.

10 Can we pull up, Bernadette, tab 23?

11 Okay.

12 BY MR. RAKOWER:

13 Q Ms. Vessecchia, I'll represent to you
14 that I pulled this document from the production
15 you made this morning. Do you see it's an e-mail
16 from Oz --

17 A Oz.

18 Q -- Gonzalez --

19 A Yes.

20 Q -- to you?

21 A Yes.

22 Q Okay.

23 MR. RAKOWER: I'd like to mark this
24 as the next exhibit, as Exhibit 19?

25 TECHNICIAN: It's 19, yes.

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2 artworks?

3 A I -- I -- I mean, only because she was
4 in the studio. I mean, but I -- I -- forgery, I
5 mean, I wouldn't think that she was going to say
6 anything that -- that anything was a forgery
7 because I just don't believe that was ever
8 happening.

9 I mean, I wouldn't know if -- if she
10 thought that.

11 Q All right. And what did you mean by,
12 "I'll do whatever"?

13 A I'll do whatever the -- whatever Mike
14 asked to do.

15 I -- I would never do anything that I
16 don't feel is right. I'm not like that. I mean,
17 I'm just not that person. But, like, if, you
18 know, if I need to -- I guess they were talking
19 about -- he said they were talking about having
20 you testify in a deposition.

21 I'm like, "I'll do whatever." I mean,
22 you know, I'll help him -- you know, I'll help him
23 out, I'll gather documents; whatever needs to be
24 done.

25 Q Okay. Is it your understanding that by

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2 MR. RAKOWER: Okay. Let's mark
3 this Exhibit 19. Thank you.

4 (Whereupon, Plaintiff's Exhibit No.

5 19, E-mail from Oz Gonzalez to

6 Annette Vessecchia, and Mr.

7 McKenzie, Dated June 12, 2020, was
8 marked for identification.)

9 BY MR. RAKOWER:

10 Q This is an e-mail from Oz Gonzalez to
11 you and also copying Mr. McKenzie; do you see
12 that?

13 A I do.

14 Q Okay. And it's dated June 12, 2020; do
15 you see that?

16 A Uh-huh.

17 Q Okay. And let's go to the next page.
18 Okay.

19 Do you see where it says, "Further,
20 American Image will not be estopped from creating
21 Love, Art and Ahava sculptures and printing Art,
22 Eat and USA Fun paintings and prints and as well
23 as, any other works in the Public Domain."

24 Do you see that?

25 A I do.

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1 ANNETTE VESSECCHIA
 2 Q Okay. Have you seen Mr. McKenzie or
 3 anyone at his direction creating LOVE sculptures?
 4 A Absolutely not.
 5 Q Have you seen Mr. McKenzie or anyone at
 6 his directions creating ART sculptures?
 7 A Oh, ART -- oh, A -- A-R-T.
 8 I haven't seen anybody creating those,
 9 no.
 10 Q And how about AHAVA sculptures?
 11 A I -- I don't even know what that is.
 12 Q Okay. And how about printing ART
 13 paintings, A-R-T?
 14 A I mean, we -- we have the EAT and the
 15 ART, but that -- that's from years ago.
 16 Q And have you seen anyone, Mr. McKenzie
 17 or anyone at his direction, printing USA FUN
 18 paintings?
 19 A Again, that was years ago. We have
 20 pictures of Indiana signing it, if I'm not
 21 mistaken.
 22 Q Did you ever discuss with Mr. Gonzalez
 23 or Mr. McKenzie that American Image wanted to
 24 retain the right to create LOVE sculptures?
 25 A No. I do remember Oz talking about that

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1 ANNETTE VESSECCHIA
 2 Do you see that?
 3 A Yup.
 4 Q Okay. If you'd scroll down, to the
 5 next -- sorry.
 6 A Yup.
 7 Q Do you see that's a LOVE -- the image of
 8 a LOVE sculpture?
 9 A Uh-huh.
 10 Q Okay. And do you see at the top of
 11 this -- on the top right corner it says that the
 12 e-mail was sent on November 20, 2020?
 13 A Yes.
 14 Q Why did Mr. Gonzalez send you this
 15 e-mail?
 16 A This -- this is a LOVE sculpture that
 17 The Museum of Modern Art produced probably back
 18 in -- oh, man -- 2015 -- 2013 -- I -- I mean, we
 19 have those sculptures. I mean, I'd have to look
 20 at the bottom of one of them. I'd probably find
 21 them on eBay.
 22 It -- that -- that's all it was. It was
 23 a picture. Mike has a few of them. I have -- I
 24 have some too. I mean, they were cute little
 25 sculptures that -- but I don't know -- is there

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1 ANNETTE VESSECCHIA
 2 but I was like, that's never going to happen.
 3 Mike would never agree to that, number one, even
 4 if that was a possibility.
 5 I -- I -- I can't -- I mean, yeah, that
 6 was Oz's idea.
 7 Q Okay. And what did Oz say about that?
 8 A He just thought that since it was in the
 9 public why not, you know -- I'm sorry, I'm cold --
 10 why not, you know, just do it yourself.
 11 Q Okay.
 12 A I mean, there was no way that Mike would
 13 ever, ever --
 14 MR. RAKOWER: Let's put this
 15 document to the side and let's pull up
 16 tab 24. Okay.
 17 BY MR. RAKOWER:
 18 Q And I'll represent to you that I pulled
 19 this e-mail from your production.
 20 A Yup.
 21 Q Do you see that this is an e-mail from
 22 Oz Gonzalez to you?
 23 A Yes.
 24 Q Okay. And it's titled "Love sculpture
 25 pic."

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 2 any writing in this?
 3 I don't know why Oz sent this. Unless,
 4 it's very possible this was just on a shelf
 5 because Mike has, you know, little things that --
 6 some that he's created, some that he has bought.
 7 He was given, you know, like, sculptures.
 8 So Oz may have just pulled this off
 9 thinking that Mike had it, like, manufactured
 10 maybe, but he didn't. This is a Museum of Modern
 11 Art piece.
 12 MS. ZERNER: Can you show the
 13 complete e-mail?
 14 TECHNICIAN: Yeah. Give me one
 15 second.
 16 THE WITNESS: Yeah. It's -- is
 17 it -- it's just a picture, no writing?
 18 MS. ZERNER: Thank you.
 19 TECHNICIAN: That's the complete
 20 picture. That's the e-mail.
 21 THE WITNESS: Okay.
 22 A Yeah. I -- I guarantee you this was
 23 just something that Oz found laying around in the
 24 studio because he used to send pictures like that.
 25 MR. RAKOWER: We can mark this as

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the next exhibit number and then put it
to the side. I think it's Exhibit 20.
(Whereupon, Plaintiff's Exhibit No.
20, E-mail titled "Love sculpture
pic" to Annette Vessecchia dated
November 20, 2020, was marked for
identification.)

MR. RAKOWER: And I wanted to pull
up tab 26.

THE WITNESS: Uh-huh.

BY MR. RAKOWER:

Q I'll represent to you that I pulled this
document from the document production you made
this morning. Do you see it's an e-mail chain
between you and folks who work at the Dunnington
law firm?

A Yes.

Q Do you see that?

A Yes.

Q And the e-mail chain is dated
February 13, 2019?

A Yes.

MR. RAKOWER: Okay. Let's mark
this as the next exhibit. I think this

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that?

A Uh-huh.

Q After she sent you that link, did you
upload e-mails onto that website?

A Yes.

Q Okay. And what -- and the e-mails that
you uploaded, did you upload your complete inbox
or did you select particular e-mails to upload?

A I -- all my -- the Michael McKenzie
e-mails go to a folder so I -- I'm sure I -- I
went through them. But I know exactly what that
file was and it was -- it was enormous. It was
more stuff than just that.

I mean, it was -- I don't think it was
just stuff, like, from me to him, I think it was
stuff that I was copied on or that he gave to me.
It was part of a whole folder full of, like, legal
stuff --

Q Okay.

A -- that they wanted.

Q And were you the only person who
searched your e-mails for responsive documents?

A Mike --

MS. ZERNER: Objection.

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is Exhibit 21.

TECHNICIAN: Yes. It's 21.

(Whereupon, Plaintiff's Exhibit No.
21, E-mail Chain Dated February 13,
2019 to Dunnington Firm, was marked
for identification.)

BY MR. RAKOWER:

Q And the bottom e-mail you write to
someone named Tina Carter, who works at
Dunnington.

Do you see that?

A Uh-huh.

Q And you say, "Hi Tina, I have some
emails for you regarding the Michael McKenzie
case. Is there a link to send it or should I mail
it in an external drive."

Do you see that?

A Yeah.

Q Okay. And Tina responds, "Greetings,
Annette: Please use the following link to upload
emails to our ftp site."

Do you see that?

A Yes.

Q And she sends you a link. Do you see

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THE WITNESS: Okay.

MS. ZERNER: To the extent that
calls for speculation.

But go ahead and answer what you
know.

A I mean, my personal e-mails? Yeah. I
mean, I would have been the only one that would
have access to that.

BY MR. RAKOWER:

Q And what instructions were you given to
find responsive documents?

A I'm sorry. Repeat that?

Q What instructions were you given in
order to locate responsive documents?

A Well, this was all part of documents
that were gathered when they were there. So
they -- they were directing and we were just
putting everything into a folder, and then this is
where the folder got sent to.

Q Did Ms. Carter provide you with -- with
instructions?

A Yeah. And she must be, like, a tech
person because her name does not sound familiar.
The other people at the top do but I'm -- I'm not

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sure -- I'm not sure who she is. But --

Q How -- how did you decide which e-mails were relevant and which e-mails were not relevant to provide to the Dunnington lawyers?

A Oh, I think I just -- anything that, like, involved -- I mean, I guess I could have given them everything. I can't imagine because that would be a pain in the butt for them.

Like anything that was involved, like, "I'm going to be late today" or "I can't be here" or, you know, stuff like that. I mean, there wasn't any need for them to have that kind of stuff.

Q So you went through the e-mails and decided yourself what was relevant and not relevant?

A Likely. I mean, it's possible I could have just given them everything but I likely went through.

It's not like there were a ton because, I mean, I don't keep e-mails from 2012. I mean, it was 2018. I mean, Holy cow, that would be like -- you know, I delete stuff as I go so it -- it probably wasn't, like, a ton.

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MR. RAKOWER: No worries. Okay.

So I have no more questions. I do just want to make a reservation of rights. Bridget, I told you that I would just make this on the record and I just want to put it on the record and then you can put whatever, on the record, that you need to.

So we really appreciate, Ms. Vessecchia, you taking the time today to sit for a deposition and -- and give answers to our questions.

But I also just need to make this reservation of rights on the -- on the record. And, in particular, we only received it, an initial document production, from Ms. Vessecchia at 5:30 p.m. yesterday, the day before her deposition. And we received an additional document production this morning only 14 minutes before the deposition was scheduled to commence. Her production span hundreds of pages so we reserve our rights to hold the

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Q And how often do you delete your e-mails?

A I mean, almost daily.

Q Okay. And that was regular practice --

A Yeah.

Q -- as of February --

A Yeah.

Q -- 20- --

A Yeah. Because, I mean, I can't -- I can't have, like, you know, I -- I was getting copied on -- on stuff that, like, didn't even, you know, involve me. Like Mike saying, "I'm taking the car" and to, like, "get it serviced."

You know, stuff like that.

MS. ZERNER: Ms. Vessecchia, just be careful to let Mr. Rakower finish his question before --

THE WITNESS: Oh, I'm so sorry. I'm --

MS. ZERNER: -- you start to answer --

THE WITNESS: I'm so sorry. Because I'm not looking at the screen. I'm so sorry.

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deposition open or reopen the deposition to ask Ms. Vessecchia additional questions regarding items in the belated document productions.

So I just want that on the record.

MS. ZERNER: Okay. And before we go, I'm going to have a few questions but I personally need a ten-minute break.

And I'd also say, you know, certainly we made an effort to provide things in advance but the subpoena did call for documents to be produced by 10 a.m. this morning and they were. So I'll take a -- unless there's anything else for the record right now, I need a ten-minute break before I have a handful of questions before we end today.

MR. RAKOWER: Ten-minute break is fine with me.

THE WITNESS: Okay.

MS. ZERNER: Okay. We will be back at 3:50. Thank you.

THE VIDEOGRAPHER: Off the record

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 at 3:41 p.m.
 (Whereupon, there was a recess
 taken from 3:41 p.m. to 3:53 p.m.).
 THE VIDEOGRAPHER: On the record at
 3:53 p.m.

CROSS-EXAMINATION

BY MS. ZERNER:

Q Okay. Ms. Vessecchia, are you ready?

A Yes.

Q All right. A few follow-up questions.

You were shown the declaration of Oz
 Gonzalez that he signed, I believe, on August 31,
 2021. And it says, "McKenzie frequently
 intimidated Vessecchia."

Is that a true statement?

A Absolutely not.

Q It also says "McKenzie frequently
 intimidated his other employees by using implicit
 threats of violence."

Is that true from your observation?

A No.

Q Now, you spoke earlier about that you

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 did meet Robert Indiana in person; correct?

A Yes.

Q And when you met him in person, that was
 after you had heard phone calls between Mike
 McKenzie and Robert Indiana; correct?

A Yes.

Q And when you met him in person, did his
 voice match the voice you previously heard on
 phone calls with McKenzie?

A Yes.

Q And you mentioned that you heard, at
 times, Mr. Indiana complaining to McKenzie about
 Morgan or the Salama-Caros?

A Yes.

Q Did you ever hear him complaining about
 Morgan's accountings to him?

A Yes.

Q Do you recall Mr. Indiana complaining to
 McKenzie that Morgan owed him money?

A Yes. Multiple times.

Q Did you hear him ever, Mr. Indiana, ever
 say that Morgan didn't provide complete
 accountings for several years?

A Yes.

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 Q Do you remember anything else about
 those complaints, any details?
 A He just felt like he was getting
 swindled or he wasn't part -- he -- there was
 something going on and he was frustrated by it and
 couldn't get it in -- wasn't getting anywhere.
 Just, basically, those kinds of things.

Q And -- okay. Moving on to the questions
 about the Dunnington firm collecting documents.

They came to the studio to collect
 documents, people from the Dunnington firm;
 correct?

A Yes.

Q And did you provide them full access to
 the documents they requested?

A I provided them full access to our
 studio computer and any, like, external hard
 drives or whatever that we might have but yes --
 yes. I mean, not Mike's computer, I didn't have
 access to that.

Q Did you hide or delete anything --
 excuse me. Did you -- let me rephrase.

Did you delete anything or hide it from
 the Dunnington attorneys because you didn't want

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 it to be disclosed in the litigation?

A No.

Q And then later, the next attorney,
 Mr. Simoni, he asked for documents from you as
 well; right?

A Yes.

Q Did you delete or hide anything from him
 because you didn't want it disclosed in the
 litigation?

A No.

Q Did Mike ever tell you to delete or hide
 anything from the attorneys because he didn't want
 it disclosed in the lawsuit?

A No. Absolutely not.

Q Now, we were talking -- you were asked
 questions about two visits by Quinn Emanuel
 representatives or representative -- Quinn Emanuel
 represents Morgan and representatives of Morgan,
 including Quinn Emanuel counsel, came to the
 Katonah property twice in the last year, on
 May 25th and on August fifth, I believe; right?

A Yes.

Q The visit -- did you -- for the May 25th
 visit, did you understand that Oz Gonzalez was

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 2 left in charge by McKenzie to show all the
 3 artwork?
 4 A Yes.
 5 Q And to your knowledge, Oz was aware of
 6 the big HOPE sculpture outside?
 7 A Yes.
 8 Q At that time?
 9 A Yes.
 10 Q And he was aware about the artwork in
 11 the basement?
 12 A Yes.
 13 Q Did you ever hear McKenzie, in advance
 14 of that May visit, instruct Oz or anyone to hide
 15 certain Indiana artwork from the parties coming
 16 that day?
 17 A No.
 18 Q And you weren't there the whole time on
 19 the May 25th visit; right?
 20 A No.
 21 Q For the second visit, I think in part to
 22 an answer to a question about the second visit in
 23 August, you had mentioned art handlers.
 24 Do you know for certain that art
 25 handlers came to the Katonah property on August

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 2 had testified that you heard about a court order.
 3 Do you recall ever seeing the actual court order?
 4 A No, I don't recall ever seeing it.
 5 Q You were asked about the archive that --
 6 that you use or you've maintained --
 7 A The Artwork Archive, yes.
 8 Q Okay. Do I understand correctly that
 9 that data is an online database hosted by a third
 10 party?
 11 A Yes. The third party is Artwork
 12 Archive, yes.
 13 Q Okay. Do you have a printout of
 14 everything in that database?
 15 A Not currently in my possession.
 16 Could there have ever been? Maybe but
 17 it's hundreds and hundreds of pages.
 18 I -- I -- I don't know that I would have
 19 ever printed out, like, the full, you know, gamut.
 20 I would have just picked Robert Cottingham or Ron
 21 English or Robert Indiana, whatever -- whoever it
 22 might be because it's -- it's a lot.
 23 Q Okay. Because -- and as you just
 24 mentioned, the Archive includes artists other than
 25 Indiana?

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 2 fifth?
 3 A I don't know for certain. I think I
 4 just assumed they were because they had, like,
 5 uniforms on. You know, they wear, you know --
 6 usually they have, like, the same tee-shirt or
 7 whatever or -- on or dark pants or whatever.
 8 Q Now, you are working -- you had to meet
 9 art handlers for the estate separately at the
 10 Middletown storage facility; right?
 11 A Yes.
 12 Q Okay. And the estate, so we are clear,
 13 is separate from Morgan; okay?
 14 A Right.
 15 Q Now, for the second -- going back, I
 16 know there's been a lot of visits that you've been
 17 there for by different people.
 18 A I get confused.
 19 Q So the second visit at the Katonah
 20 property to the studio, did -- and that's the
 21 visit in August -- did anyone tell you it was to
 22 inspect artwork or was that your assumption?
 23 A That was my assumption.
 24 Q And it was mentioned that the August
 25 fifth visit was pursuant to a court order and you

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 2 A Yeah. Absolutely.
 3 Q And speaking of other artists, when you
 4 moved -- helped Mr. McKenzie move artwork to the
 5 Middletown storage facility this past summer, you
 6 moved works by other artists, not just Indiana;
 7 right?
 8 A Yes. I mean, anybody that was in the
 9 basement so yes.
 10 Q And for the second visit to the Katonah
 11 property in August, did you understand that Oz was
 12 left in charge on that date as well?
 13 A Yes.
 14 Q And did you ever hear Mr. McKenzie tell
 15 Oz to hide anything on that date?
 16 A No.
 17 Q Did you ever hear Oz Gonzalez suggest
 18 using the Ghostwriter at the American Image Art
 19 studio?
 20 A Yes, I did.
 21 Q And what did he say in that regard?
 22 A We had a stack of -- we have a -- you
 23 know, prints that have never been signed and he
 24 said, "I don't understand why we don't just use a
 25 Ghostwriter."

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He asked me a bunch of questions about it.

And I said, "Mike would never go for that. But secondly, there's a protocol with the Ghostwriter where you have to call in to get a code each -- you know, when you use it.

I'm like, "I don't -- we wouldn't even be able to get a code, I mean, to -- to use it."

So -- but yeah.

Q So to be clear, Mr. McKenzie didn't agree with Oz's suggestion at any time --

A No.

Q -- that you were aware?

A It was a definite "no."

Q And you were shown that Instagram post by Kate Casey?

A Yes.

Q Do you recall?

A Yes.

Q Did you ever talk with Kate Casey about that post afterward?

A Yes, I did. I was like, "What were you thinking?"

And she said, "I was just trying to be

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funny."

"I wish -- I wish I would never have posted that." She goes, "If I -- if I could take it back, I would."

Q Did she say anything else?

A She just kept saying, "You know I was trying to be funny, right?"

And I -- I mean, knowing her personality, I -- I agreed. Yeah. I mean, she just -- you could tell that she was just, like, "I just shouldn't have done that. That was -- I shouldn't have."

Q Okay. Now, you produced, as counsel has taken you through, hundreds of pages of text messages with Oz Gonzalez; right?

A Yes.

Q You -- during his time at American Image Art, did Oz hit on you?

A Yes.

Q Did he harass you?

A Yes.

Q Did he insult you?

A Yes.

Q And I know some -- some of that is in

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the text messages; right?

A Yes.

Q And did he ever do that to your face?

A Absolutely.

Q And just to be clear, did he hit on you in person?

A Yes, he did.

Q Did he get upset with you and insult you in person?

A Yes, he did.

Q Did that include because you weren't receptive to his overtures toward you?

A I just assumed that was the problem -- I mean, that was the issue, yeah.

I mean, you can see in the text messages he states it clearly.

Q Now, did -- at some point you told Mr. McKenzie that you were being harassed by Mr. McKenzie?

A I did only because I wanted Mike to know that -- that I was going to confront Oz about it. That I wanted to continue to work for Mike, but that it was causing a problem and that I needed to say something.

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And then Mike said, "okay, do I need to get involved?"

And I said, "No, I don't want you to get involved. I can handle this. I'm a big girl but I -- I just want you to know."

And I think he may have said something to Oz, I don't know for sure. I did not hear that. But it stopped for a little while and then it started back again.

So -- but again, I just tried to ignore it. I love my job and I'll be damned if somebody is going to, like, push me out of it. So, you know, I thought, I can handle this. And that's just kind of the way it was.

Q Well, was Mr. McKenzie about to fire you because Oz was harassing you?

A No. Absolutely -- no. No.

He asked if -- if -- he -- he was like, "What do I need to do to help with this?"

And I said, "Nothing. I don't want you to -- you know, I just want you to know what's going on."

Q Okay. Now, at some point this past summer, Mr. McKenzie mentioned to you and the

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 others at the studio that he was thinking about closing his studio; is that true?
 A Yeah. I don't know if he -- I don't know that it was an official, like, meeting. We just knew that it was going to happen and that -- I think he, individually, talked to Tim -- which it affects Tim much -- much more than -- and -- you know -- and Oz, because they are full-time. I'm part-time so it doesn't affect me as much.

But yeah, he did mention it. Just no specifics.

Q And how did Oz react to that idea?

A He was not happy.

Q And to your knowledge, Oz was living on the property at Katonah; correct?

A Yes.

Q And to your knowledge, he was living rent free?

A Yes. I just found that out. Yes, he was.

Q And he lived in a house on the property?

A Yes.

Q Now, you were asked several questions about the use of a stencil on the Indiana artwork?

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 A Yes.
 Q -- before his death?
 A Absolutely.
 Q Excuse me.
 Before his death, obviously?
 A Yeah.
 Q All right. I mean, would you participate in -- in making fraudulent artwork because Mike McKenzie told you to, if that's what you believed you were doing?

A No. This is -- this is what I do for a living. I mean, this is going to -- this would affect me -- I mean, you know, forever.

As -- but it's no different than anything else. I take being a graphic designer and being an artist, myself, very seriously. You don't -- I mean, you don't forge artworks.

No. I would -- I would never participate in that.

Q Okay. Moving on.

Did Oz ever tell you that he was in fear of McKenzie and his guns?

A No. No.

Q And I -- I know that there was some

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 A Yes.
 Q And I believe you said something earlier, like, that you don't think there's anything wrong with it?
 A Correct.
 Q Why did you say that?
 A Because I believe that -- first of all, I don't know when all of that stuff was printed but some of it was printed many years ago and just not ever stenciled. Because it -- it doesn't happen at the same time. You can't do it at the same time, it causes the canvas to buckle.
 And so I just never questioned -- I -- I figured it was either because that's when the artwork was decided upon, maybe the ColorWave, or that's when it was actually printed.
 And I just never questioned that -- that you couldn't do it. It just -- it just -- it didn't come up, like, as a question that it wasn't something that you could do. Because you can't do it at the same time.
 Q And when you applied the Indiana stencil to a piece of artwork, did you understand that Indiana had approved that piece --

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 harassment issues, as we talked about, but despite that, before he left American Image did you, at some point, trust Oz?
 A Yes. I -- yes. Yes.
 Q And you confided in him personally --
 A Yes.
 Q -- about personal information?
 A Yes.
 Q Did he ever give you legal advice?
 A I mean, if I would -- yeah. If I was asking about something in particular, definitely.
 Q And I -- I think you mentioned but I'm not sure: Did Oz ever talk about making LOVE artwork?
 A Yes. He felt like because it was -- I'm sorry. The way you said that came out weirdly.
 Q Oh, yeah.
 A Sorry. It threw me off.
 Q I'm referring to the LOVE image --
 A Yeah. I know.
 Q -- that you --
 A I know. But it did throw me off for a second. I was like, what?
 Yes. Because he felt like it was public

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domain and it -- if everybody else was doing it,
why couldn't he or why couldn't Mike do it? Or
why wouldn't you want to do it.

Q And Oz Gonzalez was making LOVE 3D
images?

A Yeah. I mean, yeah.

I mean, he's -- he -- I mean, I even
think he did some of his own artwork with -- I'm
sure you can see it in the text messages. So I
mean, yeah.

Q Give me one second. I think I'm about
finished.

MS. ZERNER: I have no further
questions.

MR. RAKOWER: I have no questions.

MS. ZERNER: Okay.

THE VIDEOGRAPHER: Off the record
at 4:12 p.m. This concludes today's
deposition.

(Thereupon, the deposition was
concluded at 4:12 p.m.)

CERTIFICATE

I, Clifford Edwards, Certified Shorthand
Reporter, do hereby certify that prior to the
commencement of the examination, the witness was
duly remotely sworn to testify to the truth, the
whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a
verbatim transcript of the testimony, that said
deposition was taken by me stenographically at the
time and date hereinbefore set forth, and the
foregoing is a true and accurate transcript of the
testimony.

I FURTHER CERTIFY that I am neither of
counsel nor attorney to any of the parties to said
suit, nor am I an employee of any party to said
suit, nor of any counsel in said suit, nor am I
interested in the outcome of said cause.

Witness my hand and seal as Notary Public
this 3rd day of November, 2021.

Clifford Edwards
Notary Public

My commission expires: 9/30/2026

JURAT

I have read the foregoing 263 pages
and hereby acknowledge the same to be a
true and correct record of the testimony.

ANNETTE VESSECCHIA

Subscribed and sworn to

Before me this ____ day of _____,
2021.

Notary Public
My Commission Expires:

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